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LETTER OF THE DUKE OF WELLINGTON (MAY 22, 1815) ON THE BATTLE OF NEW ORLEANS.

(From the papers of the late James S. Zacherie of New Orleans.)

In 1896-7 the late James S. Zacherie of New Orleans was in correspondence with the Earl of Longford, at that time the head of the Packenham family in Great Britain, on the subject of the Battle of New Orleans.

Mr. Zacherie was always deeply interested in our local history and at the period named had in view to provide certain prominent aspects of the battle field with markers or historical memorials. He was particularly desirous of obtaining information regarding notable participants on the British side who fell in the action.

Several letters were exchanged and in one of those written by the Earl of Longford, he said that he had,

> "a letter from the Duke of Wellington written to my grandfather (Sir E's brother) from Brussels in the early summer of 1815—it condoles with him, and criticises the government of the day for despatching the New Orleans expedition at all, its object (says the Duke) was simply *plunder*."

Later on the Earl transmitted to Mr. Zacherie a copy of the Duke's letter, saying,

> "I hope it may be of use to you as a piece of documentary evidence concerning the New Orleans Expedition."

In the last letter the Earl said, "I hope to see your article some day."

Mr. Zacherie died without writing the contemplated paper. Mr. Zacherie apparently kept no copies of his letters but his

sister has furnished the Quarterly copies of the Longford letters and of the Wellington letter, which we print below.

EDITOR LA. HIST. QUARTERLY.

I. From Earl of Longford to James S. Zacherie.

December 30, 1896.
Regent's Park Barracks
N. W.

DEAR SIR:

Re: the Battle of New Orleans:

The best history which I know of (from the British side) is "The Campaign of Washington and New Orleans," written by the Rev. J. R. Gleig (author of the "Subaltern," etc., etc., and Chaplain General to the Forces). Mr. Gleig served as a subaltern in the 85th Regt. in Spain and France in 1813-14, and also in the expeditions under General Ross to Washington, towards Balimore and against New Orleans. Mr. Gleig afterwards became a clergyman and wrote many interesting tales of military life. He died, I think, in the eighties.

Sir Edward Pakenham was never wounded in the Peninsular (it was his brother, Sir Hercules, who was wounded at Badajoz), but was badly wounded in one of the West Indian fights. He commanded Rictor's division at Salamanca—but served most of his time as Adjutant General to Wellington; he was an excellent staff officer and divisional general. Napier (Sir William) who knew him well is loud in praise in several passages of his history of the war in Spain.

I do not think he is to be greatly blamed for his failure before New Orleans, he only joined the army shortly before the assault, and was greatly hampered by the misconduct of battalion, whose colonel was afterwards cashiered by a Court Martial.

I am at present with my regiment in London, and all the papers, etc., relative to Sir E. Pakenham are at my home in Ireland, but from memory I can tell you a good deal. He was buried in the family vault at Killnean, Co. Westmeath. His statue and that of General Gibbs' stand on one pedestal in *St. Paul's* cathedral—the inscription states that they fell in an assault "on the enemies works at New Orleans." Nothing more, as far as I remember. I have a letter from the Duke of Wellington written to my grandfather (Sir E's brother) from Brussels in the early summer of 1815—it condoles with

him, and critisises the government of the day for despatching the New Orleans expedition at all, its object (says the Duke), was simply *plunder;* he further remarks on the want of cooperation between the naval and military forces, and blames the Admiral. He also states that he greatly misses Sir Edward's assistance at every moment and as, from other sources, that he considered he had wretched staff in the Waterloo campaign, he would truly feel the want of his old adjutant general. I have no photo of Sir Edward's portrait, and the portrait which I possess of him is a posthumous one and, I believe, an extremely bad likeness. Sir Edward was unmarried.

I possess a series of letters from Sir Edward to my grandfather (his brother, Lord Longford); they deal largely with family matters, and also with the war in Spain, from which country and (in 1814) Southern France, they are all written. There is hardly anything in them worth quoting but they are the writing of a good soldier and brother. I believe the story of "Beauty and booty" to be an entire fabrication—but had the Peninsular veterans got into the town of New Oreans, I fear that it might have suffered as did those Spanish cities which were taken by storm, and as every city actually *stormed* has always suffered, as far as my reading goes.

I don't know any of the families you refer to at the end of your letter, or whether they still have a representative.

Respecting the battle I may add that the 93rd Highlanders still preserve in a glass case, in the anterooms of the officers' mess, the fragments of the colours carried on that day, beneath which colours so many of their predecessors fell.

I wish I could give you more assistance—but you now have the substance of my knowledge, and a reference to papers and books would not give very much more information.

I remain,

Faithfully yours,
(Signed) LONGFORD.

II. From Earl of Longford to James S. Zacherie.

1.3. 97
Regent's Park Barrack,
N. W.

DEAR SIR:

I enclose a copy of Wellington's letter to Lord Longford (Sir E. P.'s brother). The original is preserved at Pakenham

Hall, and the copy was very kindly made by my mother. I hope it may be of use to you as a piece of documentary evidence concerning the New Orleans expedition.

Yours very faithfully,

(Signed) LONGFORD.

JAMES S. ZACHARIE, ESQ.

III. From Duke of Wellington
to Lord Longford.

Brusselles
May 22 - 1815

MY DEAR LONGFORD:

I have received your letter of the 18th, and I am very much obliged to you and highly gratified by your poor brother's recollection of me.

Neither time, nor the interesting concerns which I have had to transact, can efface the impression which the account of his loss made upon me, almost by the last shot of a contest, in the course of which he had so frequently distinguished himself; and received at the very moment at which I was about to enter on a new scene in which his assistance would have been so useful to me.

We have one consolation that he fell as he lived, in the honourable discharge of his duty; and distinguished as a soldier and as a man.

I cannot but regret however, that he was ever employed on such a service, or with such a colleague. The expedition to New Orleans originated with that colleague; and plunder was its object. I knew and stated in July that the transports could not approach within leagues of the landing place; and enquired what means were provided, to enable a sufficient body of troops with their artillery provisions and stores to land, and afterwards to communicate with them. Then as plunder was the object the Admiral took care to be attended by a sufficient number of Sharks to carry the plunder off from a place at which he knew well that he could not remain.

The secret of the expedition was thus communicated, and in this manner this evil design defeated its own end. The Americans were prepared with an army in a fortified position which still would have been carried, if the duties of the others that is of the Admiral, had been as well performed as that of him whom we lament. But Providence ordained it otherwise

and we must submit. I have not yet been able to write to Lady Longford, but will try to write to her by this Post, in the meantime I will beg you to tell her that I have received her letter, and that I condole with her most sincerely.

Believe me ever affectionately,

WELLINGTON.

IV. From Earl of Longford to James S. Zacherie.

February 22. 97.
Regals Park Broadway, London.

DEAR SIR:

Many thanks for your letter. It was very foolish of me to suppose that you had not read Gleig's book—on the other hand, I had not read the Century article as the Century magazine—Like Harpers, is very much read in England.

Burgoyne left some memoirs which were published—they are now out of print, I fancy, the best places to apply would be,

Bernard Quaritch, 15 Piccadilly, London.
H. Sothern, 136 Strand, London.

they are the best places for getting second hand books in London.

I have written to ask my brother to copy the Duke's letter and will send it you when I get it. Sir Edward was buried at Killman, Co. Westmeath, in the family vault, but no inscription was put up in the church, perhaps because the home of the family is some 14 miles away.

The picture of Sir Edward is so bad that I really shouldn't like it to be published. The Pakenham Crest is an eagle issuing from a mural crown thus—(picture in original letter in pen)—(I am no artist or herald), but I should think Pakenham's pistol would have not been lost.

The battle showed what good shots can do, it was a lesson first taught by the archers at Crecey, and repeated constantly down to the day of Majuba Hill in 1881—it needs constant repetition or it will be forgotten in the rattle of *blank* cartridge.

Yours very faithfully,

(Signed) LONGFORD.

P. S.—The Court Martial held on the officer commanding the regiment took place at Cork in July, 1815. The officer was

acquitted of cowardice—but found guilty of insubordination, of using despondent language, etc., i. e., of not doing his duty as a colonel, he was cashiered.

I have no access to other documents concerning the expedition.

L.

V. From Earl of Longford to James S. Zacherie.

June 24; 97
Hyde Park Barracks
S. W.

DEAR SIR:

I will try and get a photograph of Sir E. Pakenham's picture done and will send it to you. In the monument at St. Paul's Sir Edward's figure is the one which you mention.

As far as the tactics of the battle are concerned, I imagine that the attack was made in column because there wasn't room to deploy into line: Wellington, like the great Frederick, always fought in line whenever he could. I am pretty certain that soldiers were drilled in those days to fire from the shoulder only, but of course, in action they may have fired from the hip. But I believe that they were expected to fire only by word of command and by volleys, which were fired by platoons or companies, this kept the fire under control, and was surely the best way for indifferent shots with bad weapons to shoot. Their opponents at New Orleans naturally worked differently.

I hope to see your article some day.

Yours very truly,

(Signed) LONGFORD.

A CONTEMPORARY ACCOUNT OF THE BATTLE OF NEW ORLEANS BY A SOLDIER IN THE RANKS[1]

A Kentuckian who was in the battle has published some of those minor incidents, which brings the secene more vividly to view than can be given by a formal description. Some of them we copy below.

Col. Smiley, from Bardstown, was the first one who gave us orders to fire from our part of the line; and then, I reckon, there was a pretty considerable noise. There were also brass pieces on our right, the noisest kind of varmints, that began blaring away as hard as they could, while the heavy iron cannon, toward the river, and some thousands of small arms, joined in the chorus and made the ground shake under our feet. Directly after the firing began, Capt. Patterson, I think he was from Knox County, Kentucky, but an Irishman born, came running along. He jumped upon the brestwork and stooping a moment to look through the darkness as well as he could, he shouted with a broad North of Ireland brogue, "shoot low, boys! shoot low! rake them—rake them! They're comin' on their all fours!"

The official report said the action lasted two hours and five minutes, but it did not seem half that length of time to me. It was so dark that little could be seen, until just about the time the battle ceased. The morning had dawned to be sure, but the smoke was so thick that every thing seemed to be covered up in it. Our men did not seem to apprehend any danger, but would load and fire as fast as they could, talking, swearing, and joking all the time. All ranks and sections were soon broken up. After the first shot, every one loaded and banged away on his own hook. Henry Spillman did not load and fire quite so often as some of the rest, but every time he did fire he would go up to the brestwork, look over until he could see something to shoot at, and then take deliberate aim and crack away. Lieut. Ashby was as busy as a nailor and it was evident that, the River Raisin was uppermost in his mind all the time. He kept dashing about and every now and then he would call out, with an oath, "We'll pay you now for the River Raisin! We'll give you something to re-

[1]The document here printed was sent to Miss Grace King many years ago. At the time she received it she was unable to locate the name of the writer, but intrinsic evidence shows that he was an active participant in the battle. The Quarterly thinks the document worth preservation, being so full of local color and contemporary colloquialisms.—Ed. La. Hist. Qy.

member the River Raisin!" When the British had come up to the opposite side of the brestwork, having no gun, he picked up an empty barrel and flung it at them. Then finding an iron bar, he jumped up on the works and hove that at them.

At one time I noticed, a little on our right, a curious kind of a chap named Ambrose Odd, one of Captain Higdon's company, and known among the men by the nickname of "Sukey," standing coolly on the top of the brestworks and peering into the darkness for something to shoot at. The balls were whistling around him and over our heads, as thick as hail, and Col. Slaughter coming along, ordered him to come down. The Colonel told him there was policy in war, and that he was exposing himself too much. Sukey turned around, holding up the flap of his old broad brimmed hat with one hand, to see who was speaking to him, and replied: "Oh! never mind Colonel—here's Sukey—I don't want to waste my powder, and I'd like to know how I can shoot until I see something?" Pretty soon after, Sukey got his eye on a red coat, and, no doubt, made a hole through it, for he took deliberate aim, fired and then coolly came down to load again.

During the action, a number of the Tennessee men got mixed with ours. One of them was killed about five or six yards from where I stood. I did not know his name. A ball passed through his head and he fell against Ensign Weller. I always thought, as did many others who were standing near, that he must have been accidently shot by some of our own men. From the range of the British balls, they could hardly have passed over the brestwork without passing over our heads, unless we were standing very close to the works, which were a little over brest high, and five or six feet wide on the top. This man was standing a little back and rather behind Weller. After the battle, I could not see that any of the balls had struck the oak tree lower than ten or twelve feet from the ground. Above that height it was thickly peppered. This was the only man killed near where I was stationed.

It was near the close of the firing. About the time that I observed three or four men carrying his body away or directly after, there was a white flag raised on the opposite side of the brestwork and the firing ceased.

The white flag, before mentioned, was raised about ten or twelve feet from where I stood, close to the brestwork and a

little to the right. It was a white handkerchief, or something of the kind, on a sword or stick. It was waved several times, and as soon as it was perceived, we ceased firing. Just then the wind got up a little and blew the smoke off, so that we could see the field. It then appeared that the flag had been raised by a British Officer wearing epaulets. It was told he was a Major. He stepped over the brestwork and came into our lines. Among the Tennesseeans who had got mixed with us during the fight, there was a little fellow whose name I do not know; but he was a cadaverous looking chap and went by that of Paleface. As the British Officer came in, Paleface demanded his sword. He hesitated about giving it to him, probably thinking it was derogatory to his dignity, to surrender to a private all over begrimed with dust and powder and that some Officer should show him the courtesy to receive it. Just at that moment, Col. Smiley came up and cried, with a harsh oath, "Give it up—give it up to him in a minute!" The British Officer quickly handed his weapon to Paleface, holding it in both hands and making a very polite bow.

A good many others came in just about the same time. Among them I noticed a very neatly dressed young man, standing on the edge of the brestwork, and offering his hand, as if for some one to assist him. He appeared to be about nineteen or twenty years old, and, as I should judge from his appearance, was an Irishman. He held his musket in one hand, while he was offering the other. I took hold of his musket and set it down, and then giving him my hand, he jumped down quite lightly. As soon as he got down, he began trying to take off his cartouch box, and then I noticed a red spot of blood on his clean white under jacket. I asked him if he was wounded, he said that he was and he feared pretty badly. While he was trying to disengage his accounterments, Capt. Farmer came up, and said to him, "Let me help you my man!" The Captain and myself then assisted him to take them off. He begged us not to take his canteen, which contained his water. We told him we did not wish to take anything but what was in his way and cumbersome to him. Just then one of the Tennesseeans, who had run down to the river, as soon as the firing ceased, for water, came along with some in a tin coffee-pot. The wounded man observed him, asked if he would please give him a drop. "O! Yes," said the Tenneessean, "I will treat you to anything I've got." The young

man took the coffee-pot and swallowed two or three mouthfuls out of the spout. He then handed back the pot, and in an instant we observed him sinking backward. We eased him down against the side of a tent, when he gave two or three gasps and was dead. He had been shot through the breast.

On the opposite side of the brestwork there was a ditch about ten feet wide, made by the excavation of the earth, of which the work was formed. In it, was about a foot or eighteen inches of water, and to make it the more difficult of passage, a quantity of thornbush had been cut and thrown into it. In this ditch a number of British soldiers were found at the close under the brestwork, as a shelter from our fire. These, of course, came in and surrendered.

When the smoke had cleared away and we could obtain a fair view of the field, it looked, at the first glance, like a sea of blood. It was not blood itself which gave it this appearance but the red coats in which the British soldiers were dressed. Straight out before our position, for about the width of space which we supposed had been occupied by the British column, the field was entirely covered with prostrate bodies. In some places they were laying in piles of several, one on the top of the other. On either side, there was an interval more thinly sprinkled with the slain; and then two other dense rows, one near the levee and the other towards the swamp. About two hundred yards off, directly in front of our position, lay a large dapple gray horse, which we understood to have been Packenham's.

Something about half way between the body of the horse and our brestwork there was a very large pile of dead, and at this spot, as I was afterward told, Packenham had been killed; his horse having staggered off to a considerable distance before he fell. I have no doubt that I could not have walked on the bodies from the edge of the ditch to where the horse was laying, without touching the ground. I did not notice any other horse on the field.

When we first got a fair view of the field in our front, individuals could be seen in every possible attitude. Some laying quite dead, others mortally wounded, pitching and tumbling about in the agonies of death. Some had their heads shot off, some their legs, some their arms. Some were laughing, some crying, some groaning, and some screaming. There was every variety of sight and sound. Among those that were on the ground, how-

ever, there were some that were neither dead nor wounded. A great many had thrown themselves down behind piles of slain, for protection. As the firing ceased, these men were every now and then jumping up and either running off or coming in and giving themselves up.

Among those that were running off, we observed one stout looking fellow, in a red coat, who would every now and then stop and display some gestures toward us, that were rather the opposite of complimentary. Perhaps fifty guns were fired at him, but as he was a good way off, without effect. "Hurra, Paleface! load quick and give him a shot. The infernal rascal is patting his butt at us!" Sure enough, Paleface rammed home his bullet, and taking a long sight, he let drive. The fellow, by this time, was from two to three hundred yards off, and somewhat to the left of Packenham's horse. Paleface said as he drew sight on him and then run it along up his back until the sight was lost over his head, to allow for the sinking of the ball in so great a distance, and then let go. As soon as the gun cracked, the fellow was seen to stagger. He ran forward a few steps, and then pitched down on his head, and moved no more. As soon as he fell, George Huffman, a big stout Dutchman, belonging to our Company, asked the Captain if he might go and see where Paleface hit him. The Captain said he didn't care and George jumping from the brestwork over the ditch, ran over the dead and wounded until he came to the place where the fellow was lying. George rolled the body over until he could see the face and then turning round to us, shouted at the top of his voice, "Mine Gott! he is a nagar!" He was a mulatto and he was quite dead. Paleface's ball had entered between the shoulders and passed out through his breast. George, as he came back, brought three or four muskets which he had picked up. By this time, our men were running out in all directions, picking up muskets and sometimes watches and other plunder. One man who had got a little too far out on the field was fired at from the British brestwork and wounded in the arm. He came running back a good deal faster than he had gone out. He was not much hurt but pretty well scared.

GENL. DAVID B. MORGAN'S DEFENSE OF THE CONDUCT OF THE LOUISIANA MILITIA IN THE BATTLE ON THE LEFT SIDE OF THE RIVER

JANUARY 8, 1815.

NOTE: This is printed from a typed copy of the original manuscript copy of the original letter of General Morgan. It is furnished the Quarterly by Mr. Gaspar Cusachs, President, Louisiana Historical Society, who says he acquired the Manuscript about thirty years ago from the family of General Morgan at Madisonville, La. The Cusachs' copy, he says, was evidently the first draft of the original letter. It was in the handwriting of General Morgan and signed by him. The typed copy furnished the Quarterly was made for Mr. Cusachs and is, he says, a correct copy of the original. The letter has not been seen by the Quarterly as it is no longer in the possession of Mr. Cusachs. The copy here printed is illegible in the date but the document seems to fix this as 1817 or thereabouts.—ED. LA. HIST. QY.

MADISONVILLE, APRIL 15th, 181(7?).

To the Editors of the Reporter.

GENTLEMEN:

In your paper of the 28th of Feby last, which fell into my hands a few days since, I observed a publication addressed to the Editors at the eastward in which you have undertaken to inform the public of the causes of the defeat of the Troops stationed on the right bank of the Mississippi River on the ever memorable morning of the 8th of Jan^{y}, 1815, and in which you have also made mention of my name (as the commanding officer) in terms highly opprobrious and injurious to my character, both as a man of honor and an officer. You commence by saying "we have lately seen in the Boston Centinel a repetition of the old calumny which was thrown on the Kentucky Troops at New Orleans, and which has been so often and so fully refuted." If the Centinel or other papers in that quarter have never seen or never published the following documents, they will do an act of justice by republishing them at the present time. I deem it my duty to add that they will also do another act of justice, not only to the undersigned, but to many others (whom you have unjustly and *falsely stigmatized*) by publishing the following statement and accompanying documents:

On my own part I had long wished this story to be buried in oblivion, not that I felt any apprehension *as to myself* in case of an investigation of the affair, but for several reasons, among which are the following:

1st, I observed so much rancour in others whenever the subject was touched, that I thought it would occasion much hasty and improper altercation.

2nd, I was fully satisfied by the Commander in Chief (to whom alone I felt myself responsible), as well as by a large number of the most respectable characters; that my conduct in that importunate affair was not reprehensible, and I did hope and believe that Genl. Jackson's letter of the 2nd of April, 1815, in answer to Gen'l Adair's of the 20th of March, 1815 (part of which you have in my opinion intentionally neglected to extract in your publication, and for reasons which I shall mention hereafter) was sufficient to have put the old calumny (as you are pleased to call it) at rest, and to have "lulled to slumber" all the animosities occasioned by that disastrous event; consequently, I felt not the slightest disposition to notice or indulge in any mad versions upon several *insignificant misrepresentations* heretofore published in your paper; but you have now come forward in so glaring and palpable a light, that, to endure, in silence, would be a crime:—'twere indeed the height of injustice to myself, as well as to the intrepidity and gallant conduct of the Louisiana militia, who so nobly distinguished themselves at my lines on that eventful day,—Were I for a moment to overlook the gross malevolent aspersions reflected by you upon us—to do justice to all is my most ardent desire; to detract from any (intentionally) I never will.

The Extract given in your paper of the aforementioned date, viz: "History of the late War in the western country, which has been been published at our Office," I am not in the least disposed to contradict, neither do I doubt but that it was wrote as well as published at or near your office, but I do solemnly aver that the Extract from "History L. W. P. 519" here alluded to as having been published in your paper the 28th of Feby last contains an unjust and false statement of occurrences relative to the conduct of the troops under my command on the right bank of the Mississippi River on the morning of the 8th Jan^{y}, 1815; and further that the person or persons who were the authors did

not understand the subject, except so far as to injure the meritorious, in order—to exculpate the culpable.

I will now proceed to trace your extract throughout, contradicting such parts of it as I know and believe to be falsely stated. I shall pass on to where you observe in your extract that "the 8th Regiment with some seamen and marines having crossed the river opposite the British camp, and led by Col. Thornton, advanced under cover of some field pieces, and put to flight a corps commanded by Major Arno who had been sent down to oppose their landing, etc. etc." I presume you mean the 85th Rgt., for no such regiment as the 8th ever crossed the river, but the 85th Rgt. which was (from their muster roll found on the ground, and which I have now in my possession dated 7th Jan^{y}—, one day previous to the action) was about five hundred (500) strong, also 400 marines, two hundred sailors (200), and the 5th West India Regt, crossed over; this I believe to be the force under Col^{nl} Thornton commanded both from their own official report and from the information of two prisoners belonging to said Regiment taken separately and examined separate, as well also as that of two seamen deserters; all of whom agree in their statements—they did put to flight Major Arno's corps of one hundred and twenty (120 strong) at that time commanded by Major Tessier, and which corps retreated in a most shameful and dastardly manner without even firing a gun, and in lieu of retreating to my lines, as they ought to have done when such a step became necessary they ran precipitately into the woods, since which time I have not received any intelligence from one of them excepting Major Tessier, who returned in the afternoon of said day. Continuing their march up the river they next attacked the two hundred (200) Kentuckians under Col. Davis, who had been sent half a mile in from our works to oppose them. After a sharp skirmish, Col. Davis retreated by order of General Morgan with the loss of about thirty (30) men in killed, wounded and missing. As to your absurd notion of the number of killed, I must contradict you; and am surprised that your friends (convinced as they must be to the contrary) suffer you make such a statement founded upon the most implausible basis, and altogether false. I say false, because in the report which Col. Davis made to me after the action, not a man was reported killed or missing, and only one wounded; —THEREFORE your "Extract from the History published at your

Office" is false or Col. Davis' report was false. From the above mentioned extract of yours, I for the first time learned (and I must acknowledge to my astonishment) that Col. Davis had the misfortune of having even a single man killed under his command in the action of the 8th of January, on the right bank of the river, notwithstanding their hard fighting, which you and others have been trumpeting for two years past through the medium of your paper, and your sad complaints of Commodore Patterson and myself having caluminated them. If Col. Davis lost thirty men in the smart engagement in front, why did he not contradict the report of the killed, wounded and missing of his regiment which was published by the Adjutant General (See Nile's Register, Vol. 7, page 386). The Adjutant General's report was taken from mine, and mine was made from one received from Col. Davis; this I challenge all human nature to refute; therefore, I have an indisputable right to believe and I do believe that all his slain re-assumed their human form, encumbered with the same mortal bodies as before and mingling with the bustling crowd. As to those that were missing, they, I presume, were far distant from the reach of the enemy, for I never heard that any of them had been taken prisoners, which, had that been the case, or had any been killed, I certainly should have received some account of it, or at least (as commanding officer) I ought to have been made acquainted with it. So much for your "smart skirmish in front" which was nothing more, from all the information I could ever collect, than meeting at Mayhew's canal, where they formed behind his sawmill and large piles of boards, etc. etc., and stood until they had fired about two rounds, then seeing the enemy advancing in numbers, and the cowardly retreat of Major Arno's battalion, they retreated by order (I am informed of one of my aids). Let it be understood that I have never complained myself of their retreat from their position, although many have, but I have complained of their manner of retreat, because it was a complete flight in place of a retreat, they were in the utmost disorder, one running after the other, or in other words every man for himself, in lieu of retreating orderly and returning the enemy's fire (as you pretend they did). I assert positively that they retreated to my lines in a great hurry and confusion, without returning a shot after they commenced their retreat; and their front, I believe more than two hundred (200) yards in advance of their rear;

and further that agreeably to Col. Davis' report, not a man was killed or missing, and but one wounded, viz: their Adjutant; and at the time they arrived at my lines, the enemy's front had just appeared in sight several hundred yards in their rear, and having reached the entrenchment, he was ordered to post his men on the right of the Louisiana militia; the guns in the batteries could not be employed against Col. Thornton until they were turned in their embrasures, which was not undertaken until it was too late to accomplish it before the charge was made. It is true when Col. Davis' corps retreated to my lines, they were ordered to post themselves to my right, the order was given and executed by myself in person; the other part of the lines to the left was occupied, and ready to receive the enemy when they should come near enough for their fire to have the desired effect; and to have made a change in the order in that particular moment would have occasioned a loss of time, which I feared would have been injurious. I have since regretted, however, that Col. Davis' corps was not nearer the centre and some Louisiana militia on the right, for I have reason to believe that they (the Louis.——militia), would have stood the fire much longer than Col. Davis' regiment did. The guns in the battery under the command of Commodore Patterson were all well employed against the enemy in their attack on the opposite side of the river until the action ceased, about which time we were attacked; then they were immediately turned in their embrasures, in order to be opposed to the enemy on our side, and the moment they could be used advantageously this celebrated fighting corps, upon whom you lavish such high encomiums, retreated obliquely to the left, by which they kept themselves for some distance between the marine battery (under Commodore Patterson) and the enemy. Immediately after Col. Davis' unmasked the battery, the drafted militia who were on the left of Col. Davis' corps commenced their retreat, and soon after the other corps retreated also, but not (in my opinion) until it became necessary; for at the time the Orleans militia commenced their retreat, the enemy were fast closing upon them with their right supported by a number of cannon mounted on boats, and the principal part of Col. Davis' regiment were, to the best of my knowledge and belief, about four hundred yards in the rear of my lines in full retreat; therefore, before the cannon could be used (without firing through our own men) the retreat became

general, and the greater part of my command had passed them, the few that remained were unable to protect the cannon. It, therefore, became absolutely necessary to render them (as much as possible) useless to the enemy. Accordingly, they were all spiked by order of Commodore Patterson, and the ammunition thrown into the river.

The statement which you are pleased to make regarding my having safely posted the five hundred (500) militia (Louisiana) behind a finished breastwork is incorrect. Of the regiment of drafted militia fit for duty I had only one hundred and ninety-three (193) rank and file, fifty-two (52) of which (under an officer) were placed under the command of Commodore Patterson, to assist in working the guns in the battery, leaving me one hundred and forty-one (141) of that corps. The first and Second Regiment of militia from New Orleans, about two hundred (200) rank and file,—several of the latter regiment were unarmed, allowing me a force of three hundred and forty-one (341) privates (supposing all to be armed) on the lines; exclusive of Col. Davis' regiment which was two hundred and sixty strong agreeable to his report to me on his arrival at my camp. This number was stationed behind a breast work extended at right angles from the river; but not having been so particular as your historian in measuring the ground, I am unable to say the exact distance the breast work extended back. I should judge, however, between two and three hundred yards (2 or 300 yds.), about one-half of which was tolerably well finished. Col. Davis' corps still further on the right were posted behind the bank of an old canal sufficiently high to cover a man's head when kneeling upon one knee. This I assert to be a fact. Having alighted from my horse, and proven it in their presence, in consequence of which I ordered them to kneel in the above mentioned position, and wait until the enemy advanced sufficiently near for every shot to take effect, then to rise and fire, again to drop on one knee and load and so on; but when the enemy approached them (to the best of my knowledge and belief) within about one hundred and twenty yards (120) he fired, which was returned by the principal part of Col. Davis' regiment, but not by all of them As soon as they fired, they faced round, then every man for himself. At the time they broke, I was on the right of the drafted militia (which was within a few steps of Col. Davis' left), with them, and the enemy full in view. The moment I perceived Col-

onel Davis' men give way, I made full gallop among them, and peremptorily ordered them to their stations. I called repeatedly to their officers to arrest the progress of their men and bring them back, and to Col. Davis particularly, who answered that he could not stop them. I observed to him that he did not try, and I assert that he did not open his lips to that effect; neither did he give any order whatever, but continued jogging on amidst the crowd. I soon discovered that my orders to those men or even their officers were of no avail, for neither of which (except their Adjutant) obeyed them, or made the slightest attempt to do so. I then assailed their patriotism... "Kentuckians! ever famed for their valor and patriotic feelings. Kentuckians! in whom their country has reposed the most implicit confidence; and is this the manner in which you requite your country men? Shame on you! Shame on you! Never, never acknowledge yourself Kentuckians after conducting yourself is so dastardly a manner! Behold the example there set before you (and I pointed to those foreigners of different nations, all bravely and nobly uniting to defend the cause of liberty); see how valiantly they fight, and then blush for your selves, etc." But neither officers or men could be prevailed upon to rally and return to their posts. At this critical juncture, the Adjutant Stephens (of Colonel Davis' regiment) came up, and, notwithstanding he had received a contusion in his head from a musket ball, was the only officer who attempted to rally his men. Shame on you boys! said he. Shame on you! Come let us follow the General. At which about twenty (20) men made a pause. I immediately advanced forward ordering them to follow me and I would lead them, fondly hoping that if I could only secure the return of twenty (20), the others might be induced to imitate their example, and that I could procure some relief from my left, which, with the exertion of their field pieces and small arms, had at that instant caused the enemy to fall back on his right; and a strong column of them (the enemy) deployed quickly to strengthen their left apparently, in order to take advantage of the confusion on my right occasioned by the precipitate retreat of Col. Davis' corps.

Adjutant Stephens motioned to follow me, and called to his men to come on. I, concluding that they would follow, as they moved for the purpose, rode on still calling on them to follow me; but after advancing some little distance, what was my astonishment on looking back, and perceiving them in full retreat, and more than fifty yards in my rear.

I leave the public to imagine (if possible) what my feelings were at that moment; for it 'twere in vain for me to attempt a description of them. I paused a few moments, not knowing how or in what manner to proceed—deserted by men in whom I had placed the most unbounded confidence, the bullets of the enemy flying thick around me, it seemed as if disgrace, inevitable ruin, must await me; unable to endure the distracting thought my first impulse was to rush headlong into the enemy's line, sword in hand, cut down all before me, until overpowered by numbers, I should be compelled to surrender, or fall by the sword of the enemy; but instantly as the thought flashed across my mind, the friendly voice of reason impelled me to return, and once more endeavor to rally those infatuated men, to strive if possible to retrieve their lost honor. The public I trust will be candid enough to pardon this momentary digression from my narrative, which I beg leave now to resume.

The enemy had not yet advanced as far as the old Canal (from whence Col. Davis had retreated), and I am fully of opinion that, had they returned with Adjutant Stephens and myself at the time we came forward to lead them, they might have secured the ground again (which I have before observed and repeat again would have proven a good shield for kneeling) before the enemy could have come up to the opposite side of the old canal. Here let me call your attention for a few moments! and let me ask you and every man of common sense that when I was about 50 yards in the rear of Col. D's corps (which I assert I was at the above mentioned time), and directly between him and the enemy, *how it were possible that they stood at their stations and did not retreat until the enemy turned their* right flank and commenced a fire on their rear, which, you in your "Extract from the History of the late War in the western country published at our office" assert that they did? You further state that they not only stood their ground &c.&c. but, that they did all the fighting that was done, except, as you say, a few discharges from the artillery. If the enemy had flanked Col. Davis and got into his rear, I should suppose from my being in the aforementioned position, directly between him and the enemy, that *I should have met or been surrounded by some of the red coats;* but, I positively declare I do not recollect to have seen one who had yet crossed over the old canal, and furthermore assert that I do sincerely believe the most advanced part of the

enemy's columns were not nearer than 75 yards, still farther on beyond me, making Col. Davis' corps at least 125 yards in advance of the enemy. Again, if Col. Davis' corps stood their ground until the enemy turned their right flank, and commenced a fire on their rear, as asserted in your Extract, &c. and by Gen^{rl} Adair in his letter to Gen^{rl} Jackson (dated 26th March 1815), and also that they fired three to seven rounds, how happens it that Col. Davis' corps *escaped from the enemy without one man* wounded in the whole affair of that day and without even one killed or taken prisoner? But perhaps the enemy's arms were charged only with blank cartridges; otherwise, it would at least be supposed that from so much hard fighting and without any cover from breastwork (as you and Gen^{rl} Adair pretend) there must have been considerable bloodshed, on both sides. Again, you have hitherto complained most dolefully that many of Col. Davis' corps were without arms, and others badly furnished. Gen^{rl} Adair also says they were badly armed (but Gen^{rl} Adair well knew I had no spare arms to give them), and what not a little surprises me is that General Adair, who has been reputed a military man, should order Col. Davis' corps to cross the river in such a condition when he, upon the slightest reflection, must know that they could be of little service to me if badly armed. I do believe that they were all armed; my motive for such belief is, that when Colonel Davis reported himself to me, he reported *at least* two hundred and sixty men (260). He did not say whether they were armed or not, neither did he say whether they had any ammunition or anything to that amount; which led me to conclude that they were well provided. Yet under all these difficulties, you have declared that Col. Davis' corps did all the fighting that was done, *except a few discharges from the artillery.* WHAT MISERABLE SUBTERFUGE! ! ! there was one of the enemy found dead opposite Col. Davis' position, which was the only vestige of injury done the enemy on their left, while on and near their right, which was opposed to my left, there were a large number and much blood spilt &c., and the enemy himself has acknowledged his loss to be ninety-seven (97), whilst ours was one killed and eight or ten wounded. I presume that Col. Davis will not venture to affirm that the credit of having committed such execution is due to him; No! Those very Louisiana militia which you say were safely posted behind a finished breastwork without firing a gun,—they did all the execution, and they only

(for their bravery) merit commendation. And let me tell you gentlemen: I assert it is my opinion that had Col. Davis corps done their duty, as well as those Louisiana militia, whom you and General Adair say were "safely posted behind a finished breastwork" without supporting their companions in arms, the enemy would have had very little to boast of as having gained on the right bank. And I must here add in justice to Adjutant Stephens that had every officer of Col. Davis corps been as desirous as he Adjutant Stephens appeared to be at the time of their retreat from my lines, very little complaint would have been made of his men. When the retreat became general, and no hopes entertained of being able to halt them, I rode forward and endeavored to make a stand at Jourdan's Canal, but without effect; and at Flood's canal made another attempt, and succeeding in getting Capt. Townsend of the drafted militia of Louisiana with about sixty or seventy men of different corps to make a short stand; however, as soon as the enemy came, and commenced their fire, they again left us; nor could we succeed in stopping them from Flood's canal. I pushed on until I had passed all the troops calling in a detachment of Dragoons from Capt. de Buckly's company, who commanded them in person; and another detachment, from Capt. Smith's Company of Bayou Sarah Dragoons commanded by Lieut. Flower, both making about twenty in number. When I passed the troops in advance of them all, I was near Beaugervais' Canal; and immediately after passing the bridge over the Canal, I ordered the Dragoons to form, draw their swords, and cut down every man who could not form a line on that canal. Here it is, after having retreated about a mile and a half, I was enabled with the aid of Capt. de Buckley, Lieut. Flower and the gallant men who composed their detachments, to form my men as they came up, and here—strange to relate!—of the famous fighting corps commanded by Col. Davis (actually reported to me as composed of two hundred and sixty men) only thirty-four could be found, and in the afternoon of the same day, only ninety odd could be mustered, and no account of any of the balance, having been killed or taken prisoners, and but one wounded. It is a fact beyond contradiction that, notwithstanding you and others have made such great exertions for two years past to fight Col. Davis' battles over again, and to represent him with his corps as having fought so valiantly on paper, and essaying to impress the public mind with a belief that in his great and glorious achievements of

the 8th of Jan'y, 1815, he was so unfortunate as to sustain a loss of thirty men killed, wounded and missing, and that soon after all who survived this tremendous slaughter were again in great jeopardy, being surrounded on all sides by the enemy and fired on from all sides, and having stood the fire till they themselves had fired from three to seven rounds I say that after all this route and mighty *war of words*, the result has inevitably proved that ONE SOLITARY MAN ONLY WAS WOUNDED. WHAT A RUMOUR! WHAT A PRETTY FUSS FOR .....NOTHING! ! !

As for the conduct of Commodore Patterson and myself on that eventful day, as well as on every other day, I presume that he as well as myself would be willing to let it rest on its own merits, convinced as I am that those who are best acquainted with it most, notwithstanding that you have charged us with having caused the retreat and also of having stigmatized the Kentuckians. *I deny the charge!* and declare that I never have (to the best of my knowledge and belief) charged Col. Davis corps, either at the present time or heretofore, of anything of which they have not been guilty; but I have (for reason that I think justifiable, some of which I have stated in the commencement of this) withheld many charges heretofore relative to their misconduct; neither has there appeared in any publication that I have seen any statement made by Commodore Patterson, which was not strictly true; anything in your Historical Extract to the contrary notwithstanding.

I regret that you and others have endeavored to induce a belief that in speaking of Col. Davis' corps I wish to imply something derogatory to the militia of Kentucky; if such a belief exists in the mind of the people of that State, in order to remove impressions so repulsive to my intentions, I now declare that anything I have here stated, or that I have previously said, was intended only to apply to that particular corps and those persons who have concerned themselves in an attempt to shield them from deserved censure, and that too at the great expense of *truth* to the great detriment of others; as well might be said that I have reflected a stigma upon the Louisiana militia reprobating the cowardly behavior of Major Arno's corps.

A few observations on Col. Davis' court of inquiry, and then I trust I shall have done with you (on the subject) forever. It will be recollected that Col. Davis called a Court of Inquiry as I believe after having been well prepared by the aid of his par-

ticular friends and Counsellors, Gen[l] Adair, Col. Caldwell and others. The court was about a week in session, previously to my having the slightest knowledge that such a step was in agitation. The day after that on which I received notification, and the succeeding one, I attended said Court, finding, by the order constituting the court, that an investigation, not only of the conduct of Col. Davis was required, but also an inquiry was required into all the causes of the defeat, etc. I was convinced that the court would eventually make a partial inquiry of my conduct, being authorized to receive every testimony that should be offered against me, which I am informed they afterwards did, whilst any testimony in my favor would not be admitted, as being contrary to the order of the court; therefore, I withdrew, and paid very little attention to it afterwards.

Of this I am convinced; that had it been merely an inquiry into the conduct of Col. Davis, that inquiry would have been prosecuted, and without doubt the decision would have been very much against him, as well as an unfavorable opinion would have been entertained of the conduct of his corps. Let the whole truth appear to light, and I will hazard my salvation that his conduct, as also that of his corps will appear cowardly notwithstanding all the intrigue of Col. Davis' Council and the opportunity, also, that he had of producing such evidence as best calculated to whitewash him, there being no person present who acquainted with the subject, felt sufficiently interested to cross-examine his witnesses. I say: if all the conditions being in his favor, the court of inquiry merely pronounced the Kentuckians "*excusable*," hence the inference to be drawn is, if Col. Davis had been hard pushed and the truth had all been brought before the Court, that their decision would have been not even excusable; therefore Col. Davis' friends have in my opinion done him an essential injury by not..... (illegible).

In General Adair's letter to General Jackson (of date———, —1815), which I presume is the key to your "Extract," I observe that by Major (only Lieut.) Brown, Major Tessier (of the drafted militia) and Major Johnston and Dr. Hamilton (of Col. Davis' corps), it is proved before the Colonel's court of inquiry that Col. Davis retreated (from the sharp skirmish in front) returning the fire of the enemy until he passed the breastwork. With Major Johnston and Dr. Hamilton I am not acquainted, they may be men of veracity, but I do most solemnly aver before

God any my country that the testimony above mentioned as quoted from Gen^{rl} Adair's is a wicked and notorious falsehood, and further do I assert that if Lieut. Brown and Major Tessier submitted such testimony to the court of inquiry, they must have known it to be false at the time, for it will be recollected that at the time Major Arno's corps retreated in so shameful a manner, it was when commanded by Major Tessier, and when they ran into the woods Major Tessier followed not far behind them, and instead of retreating to my lines, etc., he skulked through the swamp on my right (which the historian La Tour pronounces impenetrable, but as Col. Caldwell and Major Tessier examined it in their retreat, I refer him to them for further information respecting it) until he had passed Beaugervais' Canal, the place to which my command retreated; nor did he make his appearance, and he did not arrive there till the evening of the same day, and not until the morning of the 9th did he report to me. A word on the testimony of Col. Caldwell since Genl Adair refers to his (Col. Caldwell's of Louis. militia) testimony, to prove the length of line occupied by Col. Davis' corps, and that he (Col. Caldwell) measured it while said corps were in front of my lines. Col. Caldwell was ordered by myself with a detachment to move out between my right and the woods, for the purpose of watching any attempt the enemy might make to land in that quarter, and that the place he occupied or was ordered to occupy was about five hundred yards to the right of Col. Davis, and between them was grass, bushes, etc., which prevented a view of each other. It, therefore, remains for the public to judge of his knowledge of the exact line Col. Davis occupied when they are hereby informed that Col. Caldwell was not on the ground when Col. Davis' corps were formed, nor was he there the two succeeding days, unless he skulked from his duty when sent out to, watch and defeat (if Possible) any attempt to flank us by the enemy. No; gentlemen! Col. Caldwell informed me that he was drove into the woods by the enemy, and he as well as Major Tessier with many other gallant spirits, was forced to charge through the impenetrable swamp, made mention of by the celebrated historian La Tour as being on my right, etc. etc. I will only remark on the testimony of Capt. Holt, Capt. Ford and Adj. Stephens (all of Col. Davis corps) that the few moments they remained on the line extending five hundred yards (which appears from the testimony of those gentlemen, as also that of Col. Caldwell,

who, it seems, were their surveyor), if "pressed by the enemy until he passed the breastwork," and if also immediately on his arrival at the said place they were attacked in front, flank and rear, and after firing from three to seven rounds they extricated themselves from this unhallowed spot without injury. I say, if during all the bustle and confusion which must consequently have ensued (according to their statement), they could have deliberately stood to measure the ground on which their line extended, particularly when the enemy (they say) were in such close pursuit of them, and after all escaped uninjured; they must be supernatural or more than ordinary miracle was enough for their salvation.

I will again refer to the opinion of the public whether it were possible in the above mentioned circumstances for those gentlemen to be good judges of the precise time they occupied, whether they were not sent there only to obey orders, or when it is an indisputable fact that neither of them were ever there before, and not again until two days after that event.

I beg leave before I make a final conclusion to say a few words relative to your "extract from General Jackson's letter," of which I made mention early in the commencement of this publication. I wish only to remark that I am well aware as no doubt are all who have had the Gen'l's letter that you have strangely mutilated it, to suit party purposes, having extracted only such parts as might have appeared (though slightly indeed) in your favor, whilst the particular part relative to Commodore Patterson's conduct and my own you have willfully, wantonly neglected to transcribe. It were useless here to quote any part of the aforesaid letter for the information of the public, as I doubt not that generally speaking they are already acquainted with its contents.

Now, gentlemen, I have submitted to you and the public a correct statement (as far as I can recollect) of all the events relative to the action of the 8th Jan., 1815 on the right bank of the Mississippi, and the public are now at liberty to make comments upon it as they may think proper; conscious that not the slightest shade of censure will be reflected upon my conduct by those who are most capable of judging: I feel not the least hesitation in laying open, to the investigation of the public.

DAVID B. MORGAN.

A MASSACHUSETTS VOLUNTEER AT THE BATTLE OF NEW ORLEANS.

The original letter printed below is from the loan collection of Mr. H. Gibbs Morgan at the Louisiana State Museum in the Cabildo at New Orleans and is used here with his consent.

It is addressed on the reverse to Mr. Thaddus Mayhew, New Bedford, Mass. We have no information concerning the writer but the style of the composition indicates a fair education for those times and the second paragraph clearly shows he was a federalist and an opponent of the war, but a patriot nevertheless. He was probably one of the great number of visitors to New Orleans who swarmed to Jackson's ranks when the British invasion threatened the city or who were embodied in the levy en masse of militia by Gov. Claiborne.

The document is printed without change, an exact copy of the original.

NEW ORLEANS 26 Jany., 1815.

DEAR SUSAN:

In my last I mentioned that this state had been invaded by an army of ten thousand British Troops; that I was on duty in Camp with my Musket and Knapsack; that we had previously several severe skirmishes with the Enemy, and that we daily expected a sanguinary & decisive Battle. I have now the pleasure (having just arrived in the city) of informing you, that according to my expectations, that event happened on the memorable morning of the 8th. Inst. (about break of day) when the whole British Army marched out of their camp, and attempted, with great bravery, to storm and drive us from our Intrenchments; situated between them and the City, and extending from the River in a direct line across to the impenetrable swamp & Woods on our left, a distance of about three fourth of a mile on the left bank of the Mississippi on which the City stands. About the same time 1200 to 1500 crossed the River in Launches and attacked our intrenchment & Batteries on that side (the right Bank) defended by about 600 men enfiladed at the time by Grape & Cannon that× from Batteries which the Enemy had erected the night previous on the opposite side of the River, only about half a mile wide at that place. Our Army on the left bank of the River consisted of

about seven thousand men under the immediate command of Major General Jackson of Kentucky, who had previously rendered himself popular, & with good cause, by his success defeating and destroying Indians. Except 800 regular Troops, it consisted of, Militia, principally from Kentucky and Tennessee, deeply interested in the safety of New Orleans, the Mississippi being the only outlet for the immense Produce of the upper Country; Militia in general fight as well under Intrenchments, and in fact are better Marksmen, than the British Regulars; which accounts for our Decisive success surely on the ever memorable 8th. of January 1815 for that was a day of proud triumph to the Americans Arms Upwards of three thousand of Lord Wellingtons Troops killed wounded Prisoners & missing, the destruction of Officers almost unparralled in the histiry of other Battles—Lieutenent General Pakenham brother-in-law to Lord Wellington Commander in Chief, killed, General Gibbs, second in command, killed General Keane, third in command mortally wounded, besides a great number of Colonels, Majors & other Officers killed and wounded. The loss on our side was incredibly trifling only about *thirty* killed & wounded, oweing to our being protected from the enemy's fire of Cannon, Rockets, & Musquetry, by complete Breastworks well fortified with Cannon, and defended by Ranks *four deep* of *high minded men* determined on Liberty or Death.

I have always considered this *an unnecessary War,* but have as uniformly rejoiced in all the defeats of the British by sea and land. It makes the world respect America, & I trust will shortly induce the British to consent to an honorable Peace. The conduct of some of the politicians of my native state I do not approve.

The British Fleet & residue of their Army, it is believed, have evacuated this Country and I trust Martial Law will shortly cease.

I am with love to the Children Affectionately in great haste

THAD MAYHEW.

Addressed to Mr. Thaddus Mayhew, New Bedford, Mass.

By Authority.

GENERAL

COURT MARTIAL

Held At The
ROYAL BARRACKS, DUBLIN,
For The Trial Of
Brevet Lieutenant-Colonel

HON. THOMAS MULLINS,

CAPTAIN OF THE 44TH REGIMENT OF FOOT,
The Court assembled on the 11th of July, 1815, and continued by Adjournments to the 1st of August following,
ON THE ANNEX'D CHARGES.

DUBLIN:
Printed and Sold by William Espy,
No. 59, Dame-Street.

1815

NOTE—This report of the trial of Col. Mullins for his conduct in the attack on New Orleans is reprinted from the original pamphlet in the collection of William Beer, Esq., New Orleans.

All footnotes are in the original save this one.

The pamphlet seems to have been printed under editorial supervision that evidently was more friendly than official.—ED. LA. HIST. QTLY.

MEMBERS NAMES COMPOSING THE COURT-MARTIAL.

Lieutenant-General MEYRICK, President,
Major-General White,
———————— Doyle,
———————— O'Loghlin,
Col. Wulfe, Royal Artillery,
Col. Taylor, 88th Regiment,
Lt. Col. Waller, Royal Artillery,
Lt. Col. French, 6th Dragoon Guards,
Lt. Col. Higgins, 6th do.
Lt. Col. Bunbury, 7th do.
Major Owen, 61st Regiment,
Major Bell, 48th Regiment,
Major Henderson, Royal Engineers,
Major Sonth, 20th Foot,
Major Thwaites, 48th Foot.

AT a General Court-Martial, held at the Royal Barracks, Dublin, on the 11th July, 1815, and continued by adjournments to the 1st of August following, Brevet Lt. Colonel, Hon. Thos. Mullins, Captain in His Majesty's 44th Regiment of Foot, was arraigned upon the undermentioned Charges, viz:

1st.—"For having on the 8th January, 1815, shamefully neglected "and disobeyed the Orders he has received from the late "Major General Gibbs, commanding the 2d Brigade, to col- "lect the Facines and Ladders, and to be formed with them "at the Head of the Column of Attack at the time directed, "and in disobedience of said Orders, suffering the Regiment "under his Command to pass the Redoubt where the Facines "and Ladders were lodged, and remaining at the Head of "the Column for half an hour or upwards, without taking "any steps to put the 44th Regiment in possession of the "Facines and Ladders, in conformity with the said Orders, "knowing the period of Attack to be momently approaching, "in consequence of which disobedience and neglect, the 44th "Regiment on being sent back to the Redoubt, and returning "hurriedly with the Facines, &c. &c. was thrown into con- "fusion, and moved off to the attack in an irregular and

"unconnected manner leading to the fire and disorder which "ensued in the attacking Column, and the disasters attend- "ing it."

2d.—"For scandalous and infamous misbehavior before the "enemy, near New Orleans, on the 8th January, 1815, in "not leading and conducting the 44th Regiment under his "Command up to the Enemy's Works; in not placing the "Ladders and Facines in the Ditch as he was ordered to "do; and in not setting that Example of Gallantry to the* "Soldiers, so indispensably requisite, a part of an Officer's "Duty, to insure the success of such an Attack, in conse- "quence of which misbehaviour, the 44th Regiment did not "perform the Service allotted to them, never having made "an attempt to place the Facines in the Ditch, and thereby "leading to the Cause of the failure of the attack."

3d.—"For scandalous Conduct in having said to an Officer of "his Regiment, on the 7th January, 1815, when informed "the 44th was destined to carry the Facines, &c. "It is a "forlorn hope, and the Regiment must be sacrificed," or "words to that effect, such an expression being calculated "to dispirit those under his Command, to render them "discontented with the Service allotted to them, demon- "strative of the feeling with which he undertook the enter- "prise, and infamous and disgraceful to the character of "a Commanding Officer of a British Regiment."*

COURT MARTIAL, &c.

Substance of the Depositions of the Witnesses for the Prosecution.

1st Witness—CAPTAIN HAYMES, R. N., says as follows:

I SERVED with Major General Gibbs, in the situation of Naval Aid de Camp; I was present the day before the attack, the 7th January, 1815, Lieut. Col. Mullins was sent for by Major General Gibbs, to receive the orders, particularly relating to the 44th Regiment, as well as the order for the general attack; Lieut. Col. Mullins, in my presence, copied from the general orders the

*Original Pagination.

part of it which particularly related to the duties the 44th Regiment had to perform. An explanatory conversation then ensued between Major General Gibbs, and Lieut. Col. Mullins; Lieut. Col. Mullins then left the room, I was present the next morning before day, about 4 or 5 o'Clock, on the 8th of January, 1815, when Major General Gibbs sent Brigade Major Wilkinson to find out if the 44th Regiment had possessed themselves of the Facines and Ladders, as previously ordered. Major Gen. Gibbs having received a report that the 44th Regiment had passed the redoubt without the Facines and Ladders. On my arrival at the redoubt, which was on my way to where the 44th Regiment was, I enquired of Lieut. Tapp, of the Engineers, if the 44th Regiment had yet got the Facines and Ladders, he answered in the negative; I then left the redoubt, with the intention of going to Lieut. Col. Mullins, but on my way I met Lieut. Col. Debbeigg, with a party of the men, I asked if he was going to the redoubt. Major General Gibbs then came up, and had some conversation with Lieut. Col. Debbeigg, and then proceeded to the head of the column, it being near day, the time of attack.[1]

QUESTION BY THE COURT.

Are you able to say any thing as to the time?

Answer.—No. As the column advanced, the other part of the 44th regiment under the command of Lieut. Col. Mullins, Major General Gibbs perceived they had taken the wrong road, I was sent to Lieut. Col. Mullins to desire him to order his Regiment to the right about, as the Regiment had taken the road to the right, instead of the left; this produced a degree of confusion in the Regiment, the party with the Facines under the command of Lieut. Col. Debbeigg, came up on one flank of the column, endeavoring to get into their station, but the attack commenced before they did so; I think they were not in their station, but I cannot say positively.

QUESTION BY THE COURT.

Pray had Major General Gibbs any conversation with Lieut. Col. Mullins, respecting the Facines and Ladders, on the morning of the 8th January?

Answer.—I did not hear any.

Question.—When you saw the party of the 44th Regiment under the command of Lieut. Col. Debbeigg returning with the Facines and Ladders, did they appear to be hurried or irregular?

[1]Original Pagination.

Answer.—They appeared to be hurried and irregular, as far as I could judge.

Question.—At the time you saw the party of the 44th Regiment with the Facines endeavouring to gain their station, had any firing commenced?

Answer.—No. After two or three discharges of the enemy's artillery, the firing commenced from the party with the Facines, as I think, but I cannot be positive, some of the Men with the Facines and Ladders, from being wounded, threw them down, and commenced firing, the first fire was from the British Artillery, they fired before the Enemy's Artillery, which was almost immediately answered.

CROSS QUESTIONED BY LIEUT. COL. MULLINS.

Did you hear the bugles in advance sound before the firing opened from the enemy's lines?

Answer.—I do not recollect.

2nd Witness—LIEUT. COL. DEBBEIGG, 44th Regiment.

QUESTION BY THE COURT.—1st Charge read.

Answer.—On Saturday the 7th January, 1815, between three and four in the Evening, Lieut. Col. Mul[2]lins called me from the head of the Regiment, then on parade, to show me that he had received a copy of some orders from Major Gen. Gibbs, written in his own hand-writing, relating to the intended attack on the enemy's lines the next morning; after I had read them, the Lieut. Col. requested me to write out that part of the orders, which related to the 44th Regt. for Lieut. Col. Johnston of the 44th Regiment; after I had done so, Lieut. Col. Mullins directed Lieut. Col. Johnston to go to the Officer of Engineers, and make himself acquainted where the Facines and Ladders were to be found by him, (Lieut. Col. Mullins) the next morning; Lieut. Col. Johnston then mounted his Horse with a view to proceed to the quarters of Major Gen. Gibbs; half an hour after, he returned, with the order I had written out, and he said to Lieut. Col. Mullins, in my presence, that the place was mentioned—marked he believed, at the bottom of the paper where the Facines and Ladders would be found by the officer of Engineers; Lieut. Col. Mullins, asked Lieut. Col. Johnston, without looking at the paper, where he was to find these articles in the morning, Lieut. Col. Johnston replied, he believed in the advanced Battery we

[2]Original Pagination.

lately occupied, but the paper, he had then given him, would put it out of all doubt, or words to that effect. I saw Lieut. Col. Mullins put the paper into his waistcoat pocket, with other regimental papers, he did not show the pencil writing to me, nor did I see him look at it himself; I was second in command of the Regiment; about 8 o'clock the same evening, I in the presence of Lieut. Col. Johnston, requested Lieut. Col. Mullins, to make his arrangements for the next morning, which he declined, saying there would be sufficient time in the morning. A little before 4 o'Clock on the morning of the 8th January, 1815, the Regiment being assembled, was Marched off by, and under the orders of Lieut. Col. Mullins, we passed the Redoubts where I afterwards found the Facines and Ladders were deposited, but which I did not know at the time, and the Regiment was halted at the advance Battery, where we remained for half an hour, or upwards, during this time being posted in the rear, I walked up to the head of the column, I heard Col. Mullins, ask Lieut. Col. Johnston, where he should find the Facines and Ladders, I could not help expressing my surprise to Lieut. Col. Mullins, asking that question, when having in his pocket, the paper he received from Lieut. Col. Johnston, the evening before; Lieut. Col. Mullins said, Sir, I have the command, and I immediately walked to my post again. Day light[3] was fast approaching, when I received an order from Lieut. Col. Mullins, to proceed with 300 men to the redoubt, being a full quarter of a mile in the Rear,* and bring up the Facines and Ladders, as fast as possible, I proceeded to the spot with the men in double quick time, great part of the way, I was absent about half an hour, and when I had got the Facines and Ladders, I returned as fast as I could, as desired by Major Gen. Gibbs, in returning, I was obliged to go by the proper road, I could not make the short cut I did in going to the redoubt, about half way between the advance Battery and Redoubt, I was met by Lieut. Col. Mullins, who asked me if I had received the whole of the Facines and Ladders. I told him they were with me, when he immediately headed the party, and I returned again to my post, in the rear of the column of the Regiment, by this time it was nearly broad day light,† about 5 o'clock I think, shortly after the signal Rocket for the attack was thrown up,

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[3]Original Pagination.

*500 Yards was the exact distance as proved by the Engineer.

†The Sun did not rise at New Orleans, till near 7 o'clock, on the 8th January.

and the enemy commenced firing on us, the Regiment advanced, and from the very destructive fire from the Enemy, it was very soon thrown into confusion, when there came a confused noise to me from the front, saying there was an order of retreat; not having received that order from proper authority, I obliged several of the men coming towards me, to face about, and go on, after which I saw the men throwing away their Facines, and I detected one of the men of the Regiment firing; in the act of making him take up the Facine again, and cease firing, I was knocked down by a splinter, and I remained insensible for some seconds, I believe, when I recovered, I saw nothing but the column of the Regiment in the rear towards the redoubt, I went in the rear assisted by a Serjeant of the Grenadiers, I also received a severe contusion in the back.

QUESTION BY THE PROSECUTOR.

Was the 44th Regiment in Column on the line, when advancing to the attack with the Facines and Ladders?

Answer.—I believe they advanced in the same order as I brought them up, which was with as large a front as the road would admit of, moving three or four ladders abreast.

Question.—Would the ground after Lieut. Col. Mullins took the command, admit of a more extended front?

Answer.—It would, after quitting the road, both right and left.[4]

Question.—Had the Column of the 44th Regiment quitted the road, before the signal rocket was thrown up?

Answer.—I cannot say.

Question.—After Lieut. Col. Mullins took the Command were there ditches or broken ground in front?

Answer.—There were ditches certainly, some of them very deep, a man might leap over them, there was water in them, they were rather drains than ditches, they were four or five feet wide.

Question.—Was any alteration made in the form of the Regiment by Lieut. Col. Mullins, after taking the command, and who began the firing?

Answer.—None that I know of, the first fire was by a soldier of the 44th Regiment, it was all I observed and believe it was the first fire.

[4]Original Pagination.

CROSS QUESTIONED BY LIEUT. COL. MULLINS.

Did I desire Lieut. Col. Johnston to take an orderly Serjeant with him, to prevent the possibility of a mistake, as to the place where the Facines and Ladders were deposited, on the evening of the 7th January, 1815?

Answer.—I think he did, I think I recollect it perfectly.

Question.—Did you hear Lieut. Col. Johnston inform me, that an Engineer Officer was to attend, and that all was right?

Answer.—I did not.

Question.—Was the impression on your mind, that the Facines, &c. were at the Battery?

Answer.—I had no reason to form any opinion whatever, excepting what Lieut. Col. Johnston said the night before, that they were in the advanced battery.

Question.—Did you understand that an Engineer Officer was to attend?

Answer.—No.

Lieut. Col. Mullins then handed a paper to the evidence, and put the following Questions:

Did you ever see that paper before?

Answer.—I have seen that paper, or a similar one before.

Question.—Did you ever see me on the Day of attack, after I took the Command of the Facine party from you, on your return from the Redoubt?

Answer.—I do not recollect.

Question.—Was you ever in Action with the 44th Regiment?

Answer.—On that day I was, I was generally on the[5] Staff before, as Brigade Major, to the Brigade to which the 44th Regiment were attached.

Question.—Did you see the 44th Regiment in action at Bladensburgh, Baltimore, or any other place, except New Orleans?

Answer.—Yes.

Question.—How far had you advanced into the field, when you were wounded on the 8th January, 1815?

Answer.—About half way between the advance Battery, and the Enemy's Lines.

Question.—You state that you detected an individual of the 44th Regiment, firing, or in the act of firing, do you mean to

[5]Original Pagination.

convey to the Court, an opinion, that the 44th Regiment first commenced firing?

Answer.—I have already stated to the Court, that I was in the rear of the Column of the Regiment, I could not see what was going on in the front, the man whom I detected, as I stated, was in the act of firing.

Question.—Who began the firing at the Battle of New Orleans, on the 8th January, 1815?

Answer.—After the Rocket was thrown up, I think the first fire was from two small British Three Pounders, on our left flank, a little to the rear.*

Question.—Did you see a Gap, which obliged us to lessen our front to pass?

Answer.—Yes, that was the advance Battery, that was the only Gap I saw, through which the Regiment passed, about four men could pass in front.

QUESTION BY THE COURT.

What alteration was made, if any, in the formation of the Regiment, after passing the Gap, and was advancing to the Enemy's Lines?

Answer.—I saw none, nor received any orders.

Question.—Was the Ground intercepted with Drains the whole way to the Enemy's Lines?

Answer.—All the Ground that we passed over, as far as I advanced, until I was wounded, was intercepted with Drains; I therefore suppose the Ground in front was intercepted in the same manner, they were the breadth of a common field distance from each other.

Question.—Do you consider the Drains which you stated intercepted the ground, as obstacles to the formation?

Answer.—Certainly not, the brigade had moved over[6] the drains before in line, and having done so once, they could do so again, I conceive the drains were all alike.

Question.—Is it your opinion, that the confusion in the 44th Regiment, was the primary cause of the confusion in the attacking column?

Answer.—I cannot answer that question, I was in the rear and could not see what was going on in front, the confusion certainly was very great where I was.

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*What a palpable contradiction.

[6]Original Pagination.

Question.—Did the 300 men, which were given you to convey the Facines and Ladders, comprise the whole of the 44th Regiment?*

Answer.—Certainly not, there was 427 men in the field, so the Serjeant Major, or Adjutant told me.

Question.—Did the Facine party arrive at the head of the column of attack, before the Troops moved on to the attack of the enemy's lines?

Answer.—I cannot say.

Question.—How was the 127 men disposed of that were left after you had taken the Facine party of 300 men?

Answer.—I cannot say.

Question.—Was not the 44th ordered to move off their Camp ground, an hour before the other Regiments in the Brigade, on the Morning of the 8th January, for the express purpose of possessing themselves of the Facines and Ladders?

Answer.—I believe the 44th were so ordered and they did actually move off before the other Regiments composing the Brigade.

3d Witness, MAJOR M'DOUGAL, 85th Regiment.

QUESTION BY THE COURT.—1st Charge read.

Answer.—I was Aid de Camp to Major General Packenham, and on the signal of attack being given on the morning of the 8th January, I accompanied him to the front, he expressed himself in the strongest terms, relative to the 44th Regiment; the column of attack appeared to be moving in a regular manner, and he expressed his confidence on the event of the attack, however, a firing commenced and presently afterwards I saw many individuals of the 44th Regiment, as well as a group, 3 or 4, scattered over the field, some of them running to the rear with the Facines on their shoulders; Sir Edward Packenham said, "for shame, recollect you are British soldiers, this is the[7] road you ought to take," but with little avail; on getting up to the columns, the firing had extended to the rear, and the whole colmun was a mass of firing and confusion, and the head of the column had checked; Sir Edward Packenham placed himself in front, and by his exertions, he got the firing very nearly to cease, although not

*There was not a man in reserve, after furnishing the 300 men for the Facines; this Witness is quite mistaken.

[7]Original Pagination.

altogether, and the column which he led in person began to move forward, when he had conducted them about 30 or 40 yards, he received a wound, and his horse at the same moment was shot under him, and almost immediately afterwards, when he had mounted the 2nd horse, he received another shot which deprived him of life, and by the fall of their leader, deprived the column of its best chance of recovering success. On his fall, the firing recommenced with all its fury, and beyond the spot where the General led them, the head of the column did not advance; the ground presented no obstacle to the advance of the column, or any thing that should have occasioned straggling in a corps regularly formed, and duly attended to, had the Regiment originally been properly formed; at no period in the field did I see any part of the 44th Regiment in a body, there were some at the head of the column, many at the flanks and rear of the column; I particularly remarked several of the soldiers of that Regiment throwing down the Facines and Ladders, and commence firing. It is my opinion that the whole confusion of the column proceeded from the original defective formation of the 44th; the fall of Sir Edward Packenham deprived the column of its best chance of success, and had the column moved forward according to order, the enemy's lines would have been carried with little loss. When the fire from our column commenced, the fire from the enemy's was but mere spit of fire, nothing to check a moving column.

Question.—Is it your opinion that the confusion was occasioned by the 44th?

Answer.—Most certainly; I have already expressed that in my evidence.

CROSS QUESTIONED BY LIEUT. COL. MULLINS.

Did the 44th Regiment commence the firing?

Answer.—Firing had commenced before I reached the column, therefore I cannot say who commenced the firing; but I think, from the great state of disorder, which prevailed in the 44th Regiment, it did commence from the 44th Regiment.[8]

Question.—What was the object in expending a week in cutting a canal from the Boyeau to the Mississippi?

Answer.—For making an attack on the right bank of the River.

[8]Original Pagination.

Question.—Was it not the intention that the attack on the right bank of the River should be prior or simultaneous to the attack on the left side of the River?

Answer.—That was the intention.

Question.—Was that intention carried into execution?

Answer.—It was not, the Boats were not on the other side as soon as was expected.

Question.—Did not that Battery of the Enemy on the right bank of the River greatly annoy the column of attack?

Answer.—I should imagine that except by accident, it did not kill or wound a single man on the morning of the 8th; there was a thick fog on the River, and for 40 or 50 yards on the River, the enemy could not perceive our column, consequently their firing was entirely at random.

Question.—Was not the battery on the right bank of the River, playing on the column of attack?

Answer.—In that battery there was firing; I particularly saw several of their shots fall, not within a quarter of a mile of where there was any soldiers.

Question.—What was the strength of the battery?

Answer.—There were several batteries; about 7 guns might be brought to bear.

Question.—What time was the battery on the right bank of the river taken?

Answer.—It was after the failure of the attack on the left.

Question.—Did you never understand, that the delay in silencing the battery on the right bank, was the cause of the disaster on the left?

Answer.—Certainly not, there was no military obstacle whatever to prevent the entrance to the enemy's lines on the left bank of the River, and from the idea entertained of the enemy's works on the left bank, the previous taking of the batteries on the right bank was not considered as indispensably necessary; I speak from the authority of others, and from my own conviction, although it might have greatly facilitated the capture of the enemy's lines.

Question.—What was the distance between the battery on the right bank of the River and the line of march of the column of attack?

Answer.—I should think at least 1600 yards.[9]

[9]Original Pagination.

4th Witness, MAJOR SIR JOHN TYLDEN, 43d Regt.

QUESTION BY THE COURT.—1st Charge read.

Answer.—On the morning of the 8th January, I was in the field as senior Officer on the Adjutant General's department, I accompanied Sir E. Packenham shortly after 4 o'clock to the House of Major General Gibbs, reported to Sir E. Packenham, in my presence, that Col. Mullins had neglected to obey the order given him the evening before, in not having his Regiment at the head of the column, with the Facines and Ladders, but that he had immediately on finding it out, sent an Officer to the Regiment to hurry them on; that the mistake might be rectified, and that he was in momentary expectation of a report from that Regiment; Sir E. Packenham then ordered me to find out the 44th Regiment, and to know if they had got the Facines and Ladders, and to ascertain of their getting up in their situation in column. I did so, and found the 44th Regiment moving off at the redoubt, just before day, in a most irregular and unsoldierlike manner, with the Facines and Ladders. I then returned after some time to Sir E. Packenham, and reported the circumstances to him, stating, by the time that had elapsed since I left them, they must have arrived in their situation in columns—Shortly after the signal of attack was given, I rode with Sir E. Packenham toward the column; in passing towards the head of the column, we saw several parties of the 44th Regiment straggling about the ground with their Facines and Ladders, and some of them had even then commenced firing; on arriving at the column, a check and confusion had taken place, and the firing was becoming general throughout the whole of the column, General Gibbs came up to Sir E. Packenham, and said, in my hearing, "I am sorry to have to report to you, the troops will not obey me, they will not follow me." At this moment there certainly was great confusion prevailing in the column; Sir E. Packenham pulled off his hat, and rode to the head of the column, and cheered the men on, and in that act fell; at this time I had just returned from the other flank of the column, and having been at both flanks, and at the head of the column, I can positively assert, there was not a single man of the 44th Regiment in front. I then rode to the rear, to report the death of Sir Edward Packenham, in going to the rear, I saw several parties of the 21st and 44th Regiments running to the rear, and firing in all directions[10] in the most disorderly man-

[10]Original Pagination.

ner I ever witnessed, I also saw scattered in several parts of the field, several of the Facines and Ladders; I reported the substance of my testimony to Major General Sir John Lambert.

QUESTION BY THE PROSECUTOR.

Is it your opinion, the formation given to the 44th Regiment, was the cause that gave the impulse to the unsteadiness to the attacking column?

Answer.—Most certainly, I do think it was the reason.

CROSS QUESTION BY LIEUT. COL. MULLINS, TO SIR J. TYLDEN.

Did you never understand that the delay in silencing the enemy's batteries on the right side of the Mississippi, materially contributed to the disaster of the left side.

Answer.—It would not at all contribute to the disasters on the left side, as none of the batteries on the right side bore on the column, besides, there was a thick fog.

Question.—When did you last read Sir John Lambert's dispatches?

Answer.—I never read them or saw them.

5th Witness, CAPTAIN EMMET, Engineers.

QUESTION BY THE COURT.—1st Charge read.

Says he was Senior Officer of the Engineers, attached to the 2nd Brigade, on the afternoon of the 7th January, on the evening Lieut. Johnston 44th Regt. came to me, saying, he came from the Commanding Officer, it was about six o'clock, to be informed the place where the Facines and Ladders were to be found or deposited, I informed him they were in the advanced redoubt, and that Lieut. Tapp of the Engineers, would be there in the morning to distribute them, he expressed himself perfectly satisfied upon that subject, but I gave him a memorandum, written in pencil, repeating the same I had before stated, he again said, he was perfectly satisfied.

Question.—Was the field of battle within the range of the Guns, in the Right bank of the Mississippi?

Answer.—The whole of the ground in front of the Battery was within the range of the enemy's artillery, extending to the Wood.

QUESTION BY THE COURT.

What was the distance between the Battery on the right banks, and the attacking Column?

Answer.—1600 yards.[11]

[11]Original Pagination.

Question.—What was the force of that Battery?

Answer.—They could bring eight guns to bear, of various Calibre, but heavy.

Question.—Where was you placed?

Answer.—I could not see the right side, on account of the fog on the River, and am of opinion the fog, prevented the Battery from seeing the attacking column.

QUESTION BY LIEUT. COL. MULLINS.

Could the flashes from the attacking column upon our side, indicate to the enemy, where to point their artillery?

Answer.—It might give the enemy information, but it would be impossible for them to fire with much precision.

6th Witness, CAPTAIN TAPP, Royal Engineers.

QUESTION BY THE COURT.—1st Charge read.

Relates as follows: I received orders prior to the 8th January, to be in the advanced Redoubt, for the purpose of delivering the Facines and Ladders to the party, when they should call for them, I was further directed to move forward with this party, in order that when it should arrive at the Canal or ditch, I might give the necessary directions concerning the dispositions of the Facines and Ladders, according to these orders, I went to the advanced redoubt at 4 o'clock in the morning, I had been in the redoubt about an hour, when Captain Wilkinson, Brigade Major, entered, and enquired if the Ladders and Facines were taken out, and gone forward. I informed him that no party came for them, he said he would state this to Major Gen. Gibbs, and immediately bring the party; previous to the arrival of the party, Capt. Haymes, entered the redoubt, and also made the same enquiry, concerning the Ladders and Facines, I gave him the same answer I had given to Captain Wilkinson, Captain Haymes then left the redoubt, almost immediately after Captain Wilkinson arrived with the party, he stated to me, that Lieut. Col. Mullins had taken up his ground, at the head of the column, without the Ladders and Facines, contrary to the orders of Major Gen. Gibbs, who desired the Facines, &c. should be immediately taken up, with orders to Lieut. Col. Mullins, to resume his ground, without being perceived by the enemy, if possible, I delivered the Ladders, and greatest part of the Facines before I left the redoubt, and then went to Join the head of the party, commanded by Lieut. Col. Debbeigg; in my way I observed

the irregular manner in which the Facine party was proceeding, I arrived at the[12] head of the party, when they got to the ground of the 2nd Brigade, and left it a few minutes to speak to Gen. Gibbs, and again rejoined the party, at the time the column moved on to the attack, on looking back, I saw those in the rear following in an irregular manner, and in a short time I found myself attended by only a few men with Facines, and three or four Ladders, this small party advanced till a great number of the small party were killed or wounded, and the few that escaped, immediately dispersed, I directly joined the attacking Column, seeing General Keane, I immediately reported the dispersion of the party I was attached to, I witnessed the great confusion that took place in the attacking column, occasioned by the want of communication across the canal, or ditch, to the enemy's works, I remained with the column, till they returned, and saw nothing of the remainder of the party, till I met them in the rear, when the attack was over.

QUESTION BY THE PROSECUTOR.

If the 44th Regiment had been formed at the head of the column, would the confusion have taken place?

Answer.—Certainly not.

Question.—Do you think it was the confusion of the 44th that confused the column?

Answer.—I think it was the want of Facines and Ladders.

Question.—Were you aware it was to a party of the 44th you were directed to give the Facines?

Answer.—Yes.

QUESTION BY COL. MULLINS.

Did you observe the gap?

Answer.—I did not.

Question.—Did you see the covering party?

Answer.—I did not, except one or two near the ditch.

Question.—Did you see Gen. Gibbs halt the Regiment, and face it to the right about?

Answer.—I did not.

QUESTION BY THE COURT.

Had any part of the Facine party regained their situation before the column moved forward?

Answer.—Yes, I saw about 150 of them that regained their station.

[12]Original Pagination.

Question.—Who commanded the party?

Answer.—Lieut. Col. Debbeigg,* I did not see Lieut. Col. Mullins at all, I joined the 44th when it advanced to the[13] Canal, I was at the head of the 44th when it passed the advanced Battery, I did not observe any of the men struck by the artillery by the enemy's battery, on the right bank, from the mens' arriving so late at the redoubt, it was impossible that the whole of the Facine party could join the head of the column, before it marched forward to the attack, I did not see Col. Mullins at all.

7th Witness, CAPTAIN CURGEN, Royal Navy.

QUESTION BY THE COURT.—1st Charge read.

STATES AS FOLLOWS:

I was Naval Aid de Camp to Sir E. Packenham.

Question.—Did you see Gen. Gibbs and Col. Mullins together, on the 8th January?

Answer.—I was sent by Sir E. Packenham, to Gen. Gibbs, to tell him that he would very soon let off the signal Rocket, he desired me to tell Gen. Gibbs, to have the advance close to the enemy's lines,* when I found Gen. Gibbs, Lieut. Col. Mullins was with him, Gen. Gibbs was speaking to Col. Mullins, he was in a great passion, reproaching him with his conduct, so much so, that he would hardly listen to what I said, and desired me to go back and tell Sir E. Packenham, he was delayed by Lieut. Col. Mullins.

8th Witness, LIEUT. KNIGHT, 44th Regiment.

QUESTION BY THE COURT.—1st Charge read.

STATES AS FOLLOWS:

On the 7th of January last, the Serjeant Major went round to the different Officers, and told them the Commanding Officer wanted them immediately in his hut; they all attended, when the Colonel told them it was the Commander of the Forces' intention to attack the enemy's lines early next morning; that General Gibbs told him the 44th were to carry the Facines and Ladders, that we were to move off left in front, and was ordered to take up the 300 Facines and Ladders in his way; Lieut. Col. Mullins turned to me, and said, "You, Sir, command the Grenadiers, you

*Impossible, Lieut. Col. Debbeigg, was never in front after passing the Gap.

[13]Original Pagination.

*This was in front of the advanced Battery, the Regiment moving up to the enemy's lines.

will have to take the Ladders." I replied "that wo'nt take me long, as they are in the redoubt." Col. Mullins said, "we all know where they are Sir." The Colonel then explained how we were to act, that we were to put the Facines first into the ditch, and that I was then to pass to the front with the Ladders, and plant them in the ditch;[14] that we were then to storm with the Grenadiers, and prepare to give them the Bayonet well when we got in. The Officers were then dismissed—I then went to Col. Johnston, and asked if he and Col. Deibbeigg had arranged, and that I hoped there would be no mistake; Col. Johnston said there could be none, as he gave a paper to Col. Mullins, containing the name of the place where the Facines were to be found, or had. We fell in the next morning at between 3 and 4 o'Clock, left in front, before say; when the Grenadiers were arrived at the redoubt, the Regiment halted, which halt, was, as I supposed, for the purpose of taking up the Ladders and Facines. The head of the Regiment moved on then; when it came to my turn to go on, there was a small ditch, which prevented the whole to go on together—I turned round to Col. Debbeigg*, and said, "Col. Mullins is forgetting the Ladders and Facines."—"They are here," Col. Debbeigg replied, "it is his own affair, he is such a man that no man could dare speak to him." I said the fate of the army, and the credit of the Regiment in a manner depended on having the Facines and Ladders up—that I would send to him and let him know his mistake, let his answer be what it would, I then passed the word for the Serjeant Major, or Adjutant, the second Serjeant Major came and said they were both at the head of the Regiment, and desired to know if I wanted anything; I told him to pass to the head of the Regiment to Col. Mullins, and give him my compliments and to say he was forgetting the Ladders and Facines, and to know if I could take them with me—he came back with the answer immediately, and told me he delivered the message to Col. Mullins, who said, "be off friend," I asked him if he said anything else; he said, he desired Mr. Knight to mind his own business. I conceived I could do no more, and remained silent. The Regiment still moved on a considerable distance, when they were ordered to halt near to the advance battery; we halted there three quarters of an hour, full, when Captain Wilkinson, of the 85th Regiment, came up and enquired

[14]Original Pagination.

*This Lieut. Col. Debbeigg denies, they can't be both right!!

for the Grenadier Officer commanding the Grenadier company of the 44th. I answered, and said, "here I am;" being close to him. He said, "Knight, I suppose you know what you have to do this morning, that your commanding Officer gave you your instructions last night, how to act;" I said he did, but supposed there was some change since last night; he asked why I thought so— I said that the Ladders and Facines had not been brought up, they were left in the Redoubt;[15] he replied, "Good God, did no one tell Col. Mullins of his mistake?" I told him that I sent the 2nd Serjeant Major to him, which he took no notice of. Captin Wilkinson* then rode off—about 5 minutes afterwards, the Regiment was ordered to get up immediately, and come to the right about. Lieut. Col. Debbeigg gave the word, "move on Grenadiers;" the whole of the Regiment followed; Lieut. Col. Debbeigg moved as quick as possible back to the redoubt we had passed; the Facines and Ladders were brought out as quick as possible; when the Grenadiers had just cleared the redoubt, the signal Rocket was thrown up; the men with the Facines had moved out a considerable distance before me; Lieut. Col. Debbeigg halted the Grenadiers a short distance from the redoubt, until the whole had come out; we then proceeded as quick as possible, to overtake the column; before we reached the column, the fire had commenced, and was very heavy at the time we got up. The men in front, right and left, fell in all directions; the Grenadiers with the Ladders were ordered to remain in the rear of the column; the Facine party I saw in front of me—I then closed up to the Facine party, and kept close; the Brigade was then advancing under a very heavy fire, they had advanced 100 paces, when the men in the different Regiments commenced firing in all directions, from front to rear—there was then a cry of "cease firing," from different Regiments, which stopped in some degree, and the men then moved forward, when there was an order given, "incline to the left, 44th, and let the Grenadiers come up with the Ladders." I immediately, with the Grenadiers, moved on to the head, between the 44th Regiment and 21st; on my moving on, there was a great many men of different Regiments giving way, in great confusion; when I got to the head of the column, there was a cry of "retreat;" Col. Brooke, of the 4th Regiment, was then near me, and said, there was no order for retreat, and

[15]Original Pagination.

*This Officer was killed.

Col. Brooke desired me to get on; when I had cleared the head of the column, I looked in front of me, after I had passed the head of our Regiment, and saw an Officer of Engineers, with a small party of men with Facines and Ladders, and an Officer of the 44th Regiment; I supposed he was the Officer who was to show me where to place the Ladders; I therefore kept my eye upon him. In moving forward, I asked the Serjeant how many men I had got, he said, "you have got 3 Sergeants, and about 70 or 80 men, with Ladders and Facines." In going forward, I perceived some[16] of the men I had with me firing—I ordered the Serjeants to the rear, and told them to draw their Swords, and the first man they saw fire, to run him through, or I would run them through. When I had got within 30 or 40 yards of the ditch, I met the Engineer Officer, I believe Lieut. Tapp, returning with 4 or 5 men, whom I made join me, and the Officer went to the rear. I then moved forward close up to the Canal, or Ditch, when one of the Serjeants, I believe a Serjeant of the 4th Regiment, said, "it's of no use going any further, the whole was retreating."—I looked back, and saw that the whole had gone off a great distance, some going towards our lines, and some to the left of the wood; seeing there was no use in attempting to cross the ditch, I told the men, at all events, to throw the Ladders into the ditch, I then made them Trail Arms, and retreated towards the wood, where I saw some red coats laid down, which I afterwards found were men of the 4th and 44th Regiments. When I had got near to them, I asked the Serjeant how many men I had left; he said, "you have 1 Serjeant and 11 men, 3 of whom are badly wounded." I was then met and directed by an Officer of the Staff of General Lambert's, to join the party in the woods; I afterwards saw Col. Mullins, he asked me whether I was not up to the enemy's lines; I said, I had; Col. Mullins then asked me, if the Facines and Ladders had been up in time, if we could have entered the lines—I said, that from what I saw of the enemy's lines, had the Facines and Ladders been up in time, we most certainly should have entered them; nothing could have prevented us, as I had a very poor opinion of the lines. I then went and rejoined the party in the wood, under Major M'Auley, of the 44th Regiment.

[16]Original Pagination.

QUESTION BY THE COURT.

Do you think that the Officers commanding companies that composed the party that were to carry the Facines and Ladders, understood Lieut. Col. Mullin's orders, respecting the Facine party?

Answer.—I understood it perfectly well, and I thought the rest did.

Question.—You stated that the 44th Regiment remained three-quarters of an hour near the Battery, how was Lieut. Col. Mullins employed during that time?

Answer.—I did not see him.

QUESTION—BY LIEUT. COL. MULLINS.

When Lt. Col. Debbeigg came off the Staff and joined[17] his Regiment in Camp before New Orleans, do you not know that he constantly lived, and slept at my Hut?

Answer.—He did, he dined with you, and slept in your Hut.

Question.—At what hour did I assemble the Officers at my Hut, on the evening of the 7th January, and was Lieut. Col. Debbeigg, or Johnston present?

Answer.—To the best of my recollection, I think about 5 or 6 o'clock; Lieut. Col. Debbeigg, I believe, was not present; Lieut. Col. Johnston was present.

Question.—How long did the Facine party halt at the redoubt, and how near were they to it, on the morning of the 8th January, 1815?

Answer.—The Grenadiers on the left of the column, were just touching the redoubt; we stopped 10 minutes, or more, but I cannot say exactly.

Question.—Did you see Captain Tapp, of the engineers, at the redoubt, at any time on the morning of the 8th of January?

Answer.—I did; I saw him when we came back for the Facines, &c., and he asked me where Col. Mullins was; I said I supposed he was waiting at the outside; he answered, he had been outside and could not see him. When first advancing, I did not see him at the redoubt; I did not see Captain Tapp afterwards until I saw him at the enemy's lines.

Question.—Did you know that I sent into the redoubt for a guide, when first advancing, on the morning of the 8th January?

[17]Original Pagination.

Answer.—No, I did not; nor did I see any one go into the redoubt during the time we were halted there, on our advance.

Question,—Was the 2nd Serjeant Major, Keny, killed in action on the 8th January?

Answer.—He was.

Question.—Did I put you in arrest, 2 or 3 days previous to the 8th January?

Answer.—You did, Sir, but I was immediately afterwards released.

QUESTION BY THE COURT.

You have said that the Facines and Ladders were in the redoubt; how came you to that knowledge?

Answer.—I belonged to one of the fatigue parties employed in bringing them up.

Question.—Do you conceive, the irregularity of the 44th with the Facines and Ladders was the cause of the unsteadiness in the column of attack, on the morning 8th Jan.?[18]

Answer.—I do; the whole of the Facine party were never properly formed after receiving the Facines and Ladders; and, to my knowledge, I conceived we had nothing to do but walk up.

Question.—At what period did Col. Mullins take the command of the Facine party after leaving the redoubt with them?

Answer.—I did not see him; I was in the rear.

Question.—At the time you passed on to the head of the column, did you see Col. Mullins any where?

Answer.—No, I did not; Lieut. Col. Johnston was then at the head, ordering the Regiment to incline to the left.

Question.—How many Grenadiers of the 44th Regiment did you bring back to the wood, after the repulse, on the 8th January, 1815?

Answer.—I think 3 men.

QUESTION BY THE COURT.

What induced you to make use of the expression to Lieut. Col. Johnston: "I hope there will be no mistake the next morning."?

Answer.—I had no particular motive for saying so, except in conversation with Lieut. Col. Johnston; with whom I was walking familiarly; I said it jocularly.

[18]Original Pagination.

QUESTION BY LIEUT. COL. MULLINS.

Have you not seen me in action before, and have you reason to think I am liable to make mistakes?

Answer.—I never saw you in action.

Question.—Was the greatest loss in advancing with the Facines to the enemy's works, or in retreating?

Answer.—The loss was greater in advancing to the enemy's lines with the Facines, it being day light, every shot told.

Question.—When you was up to the Canal, or Ditch, in front of the enemy's lines, what was the Width of it?

Answer.—About 10 feet wide, and the breast work 8 or 9 feet high.

9th Witness.—MAJOR PRINGLE, 21st Regiment.

QUESTION BY THE COURT.—1st Charge read.

STATES AS FOLLOWS:

On the morning of the 8th January, I had charge of the left wing of the 21st Regiment, we moved off from our Camp ground, an hour and half before day light, left in front—I was at the head of the Column with Col. Patterson—on our arrival in the Neighborhood of the advanced Battery, we found the 44th Regiment assembled, and laid down, which I understood to be the place of Rendezvous, previous to moving on to the attack—We were ordered to halt, and the men of the 21st Regiment laid down. A very short time after, on arrival there, I saw Col. Mullins, and think I spoke to him—after we had been there about 20 minutes, a large proportion of the 44th passed our column to the rear, for the purpose, as I understand[19] of taking Facines, &c. from the Redoubt, in our rear, which had been forgotten; a considerable time elapsed, when a Rocket, which was to be the Signal for attack, was thrown up—The men were ordered to fall in and we moved off in a few minutes—The Column advanced, composed, and perfectly steady, until we were within about 40 yards of the enemy's lines; during the time, between our leaving the advanced Battery and getting to within 40 yards of the enemy's Works, several individuals of the 44th Regiment passed to the front, on our Flank, in an hurried, and irregular manner, bearing Facines and Ladders, particularly our left flank, in groups of 3 or 4, and others individually. When we were within 40 yards of the enemy's lines, several straggling

[19]Original Pagination.

shots were fired on both Flanks, and I particularly saw one man of the 44th, throw away his Facine, and take his firelock and fire. Cheering at this time had also commenced; I went to the rear of the 21st Regiment, in order to prevent men joining them, either in cheering or firing, several musket shots passed over while I was in the rear, and the men complained of being fired on very much by the rear; I returned in a few minutes to the head of the column and found it checked, and a great many men of the 4th and 44th intermixed with the head companies of our Regiment, which they said had fallen back on them; the head of the column was at this time in considerable confusion, and subsequently to that, the confusion was so very great, that I cannot give any detail of it I heard a great variety of orders, some to retreat, and some to advance, an order at last got from Gen. Keane, I think in company with Major Kipping of the 4th, to collect and retire, the men of the 21st Regiment, I did collect about 260 and retired with them to a wood on our left Flank, as we advanced, and reported myself to Col. Brooke, who at that time commanded the Brigade.

QUESTION BY LIEUT. COL. MULLINS.

What was the casualties of the 21st Regiment in the attack on the enemy's lines, on the morning of the 8th January?

Answer.—To the best of my recollection, 460 Killed, Wounded and taken prisoners, out of 800.

QUESTION BY THE COURT.

Did you conceive that the knowledge by the men of the Facines and Ladders not being up, was the cause of irregularity, and confusion in the column of attack.

Answer.—No, I do not think it did, I conceive that it was the irregular and straggling manner in which those men with the Facines came up, that occasioned that confusion at the head of the column.

Question.—Do you conceive that the enemy's Battery on the right bank of the River, had such an effect on the column as to impede its advance or cause confusion?

Answer.—Certainly not.[20]

Question.—Do you conceive that the column suffered from the fire from the enemy's Battery, on the right Bank of the River?

[20]Original Pagination.

Answer.—There was a cross fire from the right of the enemy's lines, on the left bank of the River and not from the enemy's Battery on the right bank of the River.

COURT CLEARED.

MAJOR PRINGLE—2nd Charge read.

Question.—From the situation you were placed in the head of the column of attack, did you see Lieut. Col. Mullins, at the head of the column of attack, when advancing to the enemy's lines, on the morning of 8th January.

Answer.—I think I should have seen him, but I did not see him.

Question.—Were the Ladders and Facines placed over the Ditch, leading to the Enemy's Lines?

Answer.—I do not know that they were.

QUESTION BY COL. MULLINS.

How close were you to the Enemy's Lines on the Morning of the 8th January?

Answer.—I don't think I was ever nearer than 30 yards.

QUESTION BY THE COURT.

You have said, that the Ladders and Facines, you believe, were not placed, have you not reason to know they were not placed?

Answer.—I have reason to believe, that no ladders were regularly placed, I have heard there were some few Ladders and Facines thrown into the enemy's Ditch.

Question.—Was field Officers of Regiments mounted?

Answer.—There were not any of them mounted.

10th Witness, MAJOR KIPPING, 4th Regiment.—2nd Charge read.

Question.—Did you see Lieut. Col. Mullins of the 44th Regiment, leading the Regiment up to the enemy's works during the attack?

Answer.—I did not.

Question.—Did you see Col. Mullins during the attack, if so in what situation?

Answer.—About Ten minutes after the attack began, I saw him the only time during the attack, coming up from the rear, at the same time, there were great numbers of the 44th Regt. coming with the Facines from the Redoubt in the rear, they

came up in 4 and 5, in a confused, irregular manner, and I saw several of them throw away their Facines and Ladders, and commence firing, I did not see Col. Mullins after this, during the day of attack.

Question.—Was Col. Mullins, urging the men under his[21] command to the front, or by example animating them to the attack?

Answer.—Col. Mullins was walking up himself, I did not hear him speak to any man, he went upon the reverse Flank of the column. The column was left in front.

QUESTION BY LIEUT. COL. MULLINS.

Do you recollect seeing Lieut. Andrews of the Grenadiers of the 4th Regiment wounded, and where, and at what time.

Answer.—I did not see him wounded, he went out with the left subdivision, I saw him afterwards wounded in his quarter, but not in the field.

Question.—Did you hear Lieut. Andrews' voice or any other Officers calling out shame, 4th, don't fall back?

Answer.—I did not, so far from it, Gen. Keane ordered us to disengage our rear companies, the column in front pressed so much back upon us, prior to the attack, the 4th and 21st Regts. were formed in front.

11th Witness, LIEUT. FONTBLEW, 21st Regiment.—2nd Charge read.

Question.—Did you see Col. Mullins leading or conducting the 44th Regiment, at the head of the column of attack?

Answer.—I did not.

Question.—Were you not taken Prisoner before the enemy's lines, on the morning of the 8th January, 1815?

Answer.—I was.

Question.—Were the Facines and Ladders placed by the 44th Regiment as ordered?

Answer.—When the head of the attacking column arrived at the ditch, there were no Facines or Ladders, nor could any be procured.

Question.—If Lieut. Col. Mullins had been at the head of the Regiment, in front of the column of attack, with Facines, as ordered, must you not have seen him on your arrival at the ditch?

[21]Original Pagination.

Answer.—I cannot say; many Officers might be at the head of the column, whom I did not see.

Question.—At the time of your arrival at the ditch, did you see any of the 44th Regiment, with the Facines and Ladders?

Answer.—At the time I arrived, I saw none; previous to our arrival, I saw one heavy Ladder and a few Facines, they were moving slowly, we moved on rapidly, and therefore passed them.

Question.—Do you think that men carrying heavy Ladders and Facines could move as fast as you could?

Answer.—Certainly not.

Question.—Had the Facines and Ladders been placed when you arrived at the ditch, could you have passed?

Answer.—I think I could have passed the ditch with great ease.[22]

Question.—How many men were under you when you arrived at the ditch?

Answer.—I think about 200 men of the 21st Regiment, were actually in the ditch, that Regiment being at the head of the column of attack; Brigade Major Wilkinson was the only Officer, not of the 21st Regiment, I saw at the ditch.

Question.—What, do you conceive, was the height of the breast work, and breadth of the ditch?

Answer.—The ditch was 10 to 12 feet broad, 3 to 4 feet deep, the water came about the middle of the body, and the height of the breast work might vary from 8 to 10 feet; some of the men tried to get up and fire over it,

Question.—Was there any palisadoes in the ditch?

Answer.—None; there were a few planks struck down in some places, it was by throwing down some of these, that some of our men were able to get over.

CAPTAIN TAPP.—2nd Charge read.

Question.—Did the 44th Regiment place the Facines and Ladders in the ditch?

Answer.—They did not, the greater number of the advance party who were with me were killed close to it.

Question.—Did you see Lieut. Col. Mullins leading and conducting the 44th Regiment?

Answer.—I did not see Col. Mullins.

[22]Original Pagination.

Question.—Had Lieut. Col. Mullins been with the 44th at the head of the column of attack, must you not have seen him?

Answer.—If Lieut. Col. Mullins had been at the head of the party, with the Facines and Ladders at that time, I must have seen him.

QUESTION BY COLONEL MULLINS.

Can you enumerate what Officers you did see close to the ditch?

Answer.—I cannot, there were some Officers with me, but I cannot name any one, I did not know their persons, nor I should not know any of them again, they were strangers.

Question.—What number of men were with you of the 44th Regiment, when you state you were close to the ditch?

Answer.—At the time I was close to the ditch, many of the 44th Regiment were killed and wounded, very few escaped, not more than 4 or 5.

QUESTION BY THE COURT.

Was you personally acquainted with Lieut. Col. Mullins, on or before the morning of the 8th January?

Answer.—I did not know Lieut. Col. Mullins' person until after the attack was over on that day.

Question.—How can you take upon yourself to say, you must have seen him, had he been at the head of the party, when you say, you did not know his person?[23]

Answer.—Because, when I saw him after the attack was over, from his dress and person, I must have remembered him if I had seen him at the head of the party, when it advanced to the attack.

Question.—Was there any thing particularly remarkable in his dress or person, or was it different from other field Officers?

Answer.—He had on a round Hat, blue great Coat, and I think, a red Waistcoat.

QUESTION BY LIEUTENANT COLONEL MULLINS.

You state, you was appointed to attend the 44th Regiment, what time did you join that Regiment, and was you present when the Regiment faced about?

Answer.—I was appointed to attend the 44th, but I did not see when they faced about.

[23]Original Pagination.

QUESTION BY THE COURT.

Was any other Officer besides Col. Mullins dismounted, who wore blue top Coats and round Hats?

Answer.—I did not see any other Officer dressed the same manner, dismounted.

QUESTION BY COL. MULLINS.

Did you ever see Col. Brooke of the 4th Regiment, and was he dressed in the same manner you describe?

Answer.—I have seen Col. Brooke before that day; I do not remember whether he wore a round Hat or not; I never saw Col. Brooke in action.

QUESTION BY THE COURT.

Had the Facines and Ladders been placed when you arrived could you have passed it?*

Answer.—Had the whole of the party been up at the time I arrived at the ditch, I think a communcation could have been formed.

QUESTION BY COL. MULLINS.

Where did you see me after the action?

Answer.—With the 44th Regiment, in the rear of the column, where I stated in a former evidence to have met with the party; he was then advancing with the party, crossing a ditch; I remember it from a circumstance of Major Love speaking to him at the time.

Question.—Would there have been sufficient time if the party had been at the Redoubt, to receive the Facines and Ladders when you went down to it, to have arrived at the Ditch before day light?

Answer.—There would.

Question.—How long would it have taken to have delivered the Facines and Ladders out, and how long do you think it would take for the party to arrive at the Ditch, after recovering them?[24]

Answer.—I think it would have taken from a quarter of an hour, to 20 minutes, to deliver them, in any regular manner, the distance from the Redoubt, to the American lines, was about 1200 yards.

MAJOR SIR JOHN TYLDEN—2nd Charge read.

Question.—Did you see Lieut. Col. Mullins on the morning of the 8th January, if so, state at what time, and in what situation?

*Most certainly, had the Americans allowed it.
[24]Original Pagination.

Answer.—I saw Lieut. Col. Mullins 44th Regiment as stated in my former evidence, it was after I returned to find, and at the time they were taking the Facines from the Redoubt, he was standing alone on the Camp ground, about 500 yards behind the Redoubt, where the Facines and Ladders were lodged, he spoke to me on the subject of the Facines and Ladders, but as I was anxious to find out the Rocket Brigade, I paid no attention to what he said, I never saw Lieut. Col. Mullins afterwards, either in going up to the head of the column with Sir E. Packenham, or returning from it, to go to Sir John Lambert.

Question.—As you was senior Officer in the Adjutant Gen. Department, can you state, whether the duty allotted to the 44th Regiment in carrying Facines and Ladders, and placing them in the ditch was duly performed?

Answer.—It certainly was not, as far as I can judge, there never was any attempt made to perform it.

Question.—Had Lieut. Col. Mullins, been at the head of the 44th Regiment, in front of the column of attack, as ordered with the Facines and Ladders, must you have not seen him?

Answer.—As I was in front, at the head of the column and on both Flanks, I think I must have seen him, as before stated, I saw none of the 44th Regiment at the head of the column, with Facines and Ladders.

QUESTION BY LIEUT. COL. MULLINS.

How many of the 95th destined to cover our front, did you see?

Answer.—I did not see any of them, I have every reason to believe that the 95th were then close to the Ditch.

Question.—You have said that you did not see Col. Mullins, neither in going up to the head of the Column with Sir E. Packenham, nor in returning from it to see Sir John Lambert, did you see any other officer of the 44th Regiment at that time?

Answer.—I did not.

LIEUT. KNIGHT, 44th.—2nd Charge read.

Question.—You have stated the Grenadiers went forward, and became the leading Company; did you ever see Colonel Mullins after that period?

Answer.—I did once, I saw him a few minutes before the cry of retreat, on the right; I saw him calling to the 44th, to

come on, he was then walking to the rear, the fire was very heavy[25] at that time, and the men falling in all directions.

Question.—Did the 44th perform the service allotted to them, in placing the Facines and Ladders?

Answer.—No Sir, they did not, there was not one Ladder placed.

QUESTION BY COL. MULLINS.

Do you recollect the names of any of the three men of the 44th Regiment, you brought out of the action with you?

Answer.—No, I do not.*

Question.—Did you leave any of the Grenadiers of the 44th Regiment on the Field of Battle, not wounded?

Answer.—Not one to my knowledge.

State the Names of the Officers, who you saw close to the ditch, if any?

Answer.—I did not see one Officer close to the ditch, when I looked round, the whole were retreating, Officers and Men.

Question.—You have stated in your former evidence, that on your arrival at the Wood, after the attack was over, you had only 3 Grenadiers of the 44th Regiment; what became of the remainder of the Company.

Answer.—On our advance, I saw 4 of the Grenadiers fall, under one Ladder, many of them were wounded, and obliged to throw down the Ladders, and from the confusion they were in, I saw many of them going off to the right, intermixed with other Regiments. I advanced with as many as I could collect, mixed with other Regiments, in all about 70 or 80, as I stated before.

Question.—Did you know the Names of all the Grenadier Company, on the 8th January, 1815?

Answer.—No, I did not.

Question.—How does it happen, that you do not recollect the names of any one of the 3 Grenadiers, you brought out of the field?

Answer.—I did not take any notice who they were.

QUESTION BY THE COURT.

Do you know whether the 21st Regiment, or the party of the 21st Regiment, passed you prior to your throwing the Ladders into the Ditch?

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[25]Original Pagination.

*This Officer was in the Grenadiers for a length of time, at least 3 Years, and cannot recollect any one name of these 3 men.

Answer.—I saw about 2 Companies pass me, in double quick time, I could not keep up with them, the Ladders were so heavy, I never saw any thing more of them afterwards, I heard they were taken.

Question.—Had the Facines and Ladders been up, when this party reached the Ditch, would they not have passed it?

Answer.—I certainly think they would, in my opinion, they might have passed it.[26]

Question.—How came you to move on to the left?

Answer.—I followed the directions of the Engineer, the 21st then on our right, considerably in double quick time.

Question.—What was the dress worn by Lieut. Colonel Mullins, on the morning of the 8th January, or was there a difference from any other Field Officer, or any other Officer?

Answer.—Lieut. Col. Mullins had on a Blue Coat, and other Officers of the Regiment wore Uniform, to the best of my knowledge.

Question.—Was not Major Pringle, of the 21st Regiment, dressed as Lieut. Col. Mullins?

Answer.—To the best of my recollection, he was not dressed as Col. Mullins, he wore a Regimental Cap.

Question.—Was not Col. Brooke, of the 44th Regiment, in the habit of going into action, with a Blue Coat?

Answer.—Colonel Brooke of the 44th, when in Command of the Regiment, wore a Cocked Hat, I never saw him with a Round Hat on.

QUESTION BY THE COURT.

You stated, that Col. Mullins called out to the 44th Regt. to come on, and moving at the same time to the rear; do you think, that was the place of the former to rally the Regiment, if he wanted them to come on?

Answer.—I should think the head of the Regiment was the place to rally them, he was walking quick to the rear.

Question.—If Lieut. Col. Mullins had been at the head of the Regiment, when arrived at the enemy's works, must you not have seen him?

Answer.—I certainly must have seen him, if he had been at the head of the Regiment, I did not see him at that time.

[26]Original Pagination.

SERJEANT-MAJOR LAMBERT, 44th Regt.—1st Charge Read.

Question.—Did you hear any message delivered from Lieut. Knight to Lieut. Col. Mullins, on the morning of the 8th January, 1815?

Answer.—I did, Sir, I heard the 2d Serjeant-Major, Kerny, give Lieut. Knight's Compliments to Col. Mullins, that he had passed the Redoubt, where the Facines and Ladders were, begging to know if he would allow him to take the Grenadiers for them; Col. Mullins told the Serjeant to go about his business.

Question.—Did the 44th Regiment, after this, move on to the front, half, and lie down, before the party went back to the Redoubt for the Facines, &c?

Answer.—They did move to the front, a considerable distance, and halt, some men laid down, and some men did not, for some time before they went back for the Facines and Ladders; I cannot say how long they halted, I fell asleep, and was awoke by Col. Mullins, and sent with a message to Brigade Major Wilkinson.[27]

QUESTION BY COL. MULLINS.

Did you ever communicate with Lieut. Knight, or any other person upon this subject?

Answer.—I have Sir; with Lieut. Knight, at Athlone, and in the room here yesterday; he asked me if I heard a message delivered he sent to Col. Mullins; I said I did, perfectly well, by the 2nd Serjeant Major and myself went immediately after to one side and had some conversation.

QUESTION BY COL. MULLINS.

Did I not frequently express my disapprobation of you in the field, and tell you I would have you discharged?

Answer.—You did not, in the field Sir; you did once when I came to Dauphine Island, in presence of Col. Brooke of the 4th Regiment; you wanted to know if I wanted to have my discharge, and told me if I was not able to do my duty, you would get a Serjeant Major out of the 4th Regiment.

Question.—Do you know any other reason I might have for wishing you to take your discharge?

Answer.—I don't know any other you had, Sir, for you have since said, more than once or twice; the last time going in a Boat from St. Helens to Portsmouth; since I returned from

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America, he would mention me handsomely to Colonel Brooke and Hardinge.

Question.—Did you not frequently hear me express my dissatisfaction at your general conduct, when on service in America?

Answer.—Never in my life; you have spoken hastily to me frequently, but knowing you to be a little hasty, I thought no more of it after the moment; I always thought you was my friend, until now, as you promised to speak handsomely of me. Col. Hamerton and Col. Brooke can testify as to my character; I have been a non-commissioned Officer 11 years or thereabouts.

Question.—What reason had you to think I should wish you to have your discharge, if I had such a good opinion of you?

Answer.—I cannot say.

QUESTION BY THE COURT.

What was the message you was sent with, by Lieut. Col. Mullins, after halting, and being wakened by him?

Answer.—Just to find out Brigade Major Wilkinson, to see if he was in the rear, I could not find him, on my return, I found him in conversation with Lieut. Col. Mullins, and other Officers.

Question.—What was the 2d message?

Answer.—Immediately after the Battalion was put to the right about, to go for the Facines, Lieut. Col. Mullins asked me, for God's sake to go to Captain Wilkinson, and ask him, if we should be time enough with the Facines, &c.[28] I saw Captain Wilkinson, but did not speak to him, he was with General Gibbs.

Question.—What hour did the Regiment fall in on the morning of the 8th January?

Answer.—To the best of my knowledge, about 3 o'clock, I was ordered between 2 and 3 to get the Serjeants together, without any noise, or drum beating; about an hour afterwards, we moved off, to the best of my knowledge, it was half past 3 o'clock.

LIEUT. COL. JOHNSTON, 44th Regt. 1st Charge read.

Question.—Did you receive any instructions from Lieut. Col. Mullins on the 7th January, relative to the attack the next morning, if you did, produce the copy and state?

Answer.—I did Sir? I met Col. Mullins at the Quarter House, where General Gibbs remained, he asked if I would walk towards the Camp, I said I would, on the way, he read the Gen-

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eral Orders, which he had received that day, respecting the attack to be made next morning, and the duty allotted to the 44th Regiment. We walked down to the Hut, when he desired me to go and find out where the Engineer Officer was, and know where the Facines and Ladders were, I told him I would but wished to have the questions I was to ask him in writing, Colonel Debbeigg being present, wrote such questions, as Colonel Mullins thought requisite on the occasion; I went up to the house, which we used to call the Quarter-house, and met the Engineer Officer, on my giving him the paper, he pulled out his pencil and answered the question in pencil writing, at the bottom of the question, I had brought with me, he asked me, if I thought that sufficient to find the Facines and Ladders, I said it was. I met General Gibbs, after I had left the Engineer Officer, who spoke to me, and he gave me an order, which I wrote on a piece of paper in pencil, which I had in my hand, ordering that 100 of the 44th were to join 300 of the 95th the next morning; both these papers I delivered to Col. Mullins in the presence of Lieut. Col. Debbeigg, and the Adjutant of the Regiment; on going down to the Hut, Col. Mullins asked me, if I had seen the Facines and Ladders, I answered, I had not, but that he had the instructions where to find them, in pencil writing; I then left the Hut, some time after, I was met by Lieutenant Knight, who asked me, if any thing was arranged for next morning, I answered it was not, but that I had given to Col. Mullins, the instructions from the Engineer Officer, where to find the Facines and Ladders.

Question.—From the conversation you had with the Engineer Officer, what place did you suppose the Facines and Ladders were deposited in?

Answer.—Captain Emmett marked it down in pencil, which I have a copy of, that the Facines and Ladders were in the[29] advance Redoubt; I obtained this copy from the Engineer Officer after the Action, which I have now in my possession, when Col. Mullins told me, he had lost the original.

Copy shewn in Pencil Writing.

Question.—Have you any written paper in your possession, from Col. Mullins, stating he had received any instructions, where the Facines and Ladders were to be found, if you have, produce it?

Answer.—I have. Paper produced.

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Col. Mullins acknowledges it to be his hand writing.

Cross Examined by Col. Mullins.

Question.—Is that paper* an exact copy of the paper written by Lieut. Col. Debbeigg, and which you call a message and was given you by me on the evening of the 7th January?

Answer.—I cannot say, I do not know the exact words but the purpose I believe the same.

Paper read to the Court: "The commanding officer of the 44th will assertain where the Facines and Ladders are this evening."

Question.—Did I on the evening of the 7th January desire you to go down and assertain, where the Facines and Ladders were, did I not desire you to take an orderly Serjeant with you, to prevent any mistake?

Answer.—You did desire me to take an orderly Serjeant with me, I answered there was no occasion to take an orderly Serjeant with me, as I was first to go to the Officers of Engineers, to get instructions, and I did not take one.

Question.—Did you see Captain Tapp, of the Engineers on the morning of the 8th January, if you did state where and at what place?

Answer.—When we returned to the Redoubt for the Facines and Ladders, I saw an Officer in the Redoubt dressed in a blue coat and Cocked hat, who I presume was Captain Tapp, he pointed out the Facines and Ladders, I assisted in getting out the Facines, I never to my recollection saw him afterwards on that day, I was not acquainted with his person, I might have seen him, and not known it was the same Officer, he being a stranger to me.

Question.—Did you not inform me on your return, that an Engineer Officer was to attend, regulate and conduct the Facines and Ladders on the Morning?

Answer.—I did tell you that an Engineer Officer was to attend to deliver out the Facines and Ladders, but do not[30] recollect saying that an Engineer Officer,* was to conduct, or regulate the subsequent disposal of them.

Question.—You say, returning from La Rondes House you met Gen. Gibbs, did you tell him what duty you was sent upon?

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*The Commanding Officer, of the 44th will assertain where the Facines and Ladders are deposited this evening.

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*It is rather extraordinary that Lieut. Col. Debbeigg does not recollect this.

Answer.—I did, I told him what I was come about, Gen. Gibbs was very near us, when Captain Emmitt was writing on the paper.

QUESTION BY THE COURT.

Can you state positively whether the paper written by Cap. Emmitt, was the advance Redoubt, and not the advance battery?

Answer.—To the best of my knowledge it was the advance Redoubt, I cannot swear positively.

Question.—Did Captain Emmitt verbally inform you where the Facines and Ladders were, and did he tell you they were in the advance Redoubt, or the advance Battery?

Answer.—I believe I am nearly positive, that he said in the advance Redoubt.

Question.—Did you verbally inform Col. Mullins where the Facines and Ladders were.

Answer.—I do not recollect that I verbally told Col. Mullins.

Captain Emmitt a former witness was called on by the Court, and a paper was handed to him purporting to be an exact copy of one sent to Lieut. Col. Mullins, on the 7th January, 1815, relative to the Facines and Ladders.

Answer.—Captain Emmitt on seeing the paper, said he had no hesitation in declaring the substance of the paper was the same.

Question.—Can you take upon yourself to say, that in the former paper, it was the advance redoubt, and not the advance battery?

Answer.—I can feel no doubt in saying it was the advance redoubt that was mentioned, and not the advance battery.

COLONEL JOHNSTON.—2d Charge read.

Question.—On the morning of the 8th January, 1815, where was you stationed?

Answer.—I was ordered by Col. Mullins to keep at the head of the Regiment with him.

Question.—Did you see Col. Mullins during the attack, leading and conducting the 44th Regiment?

Answer.—After the Facines and Ladders were got out, I went forward, to the head of the Regiment, where I saw Col. Mullins at the head of the Facine party, in front of the advance battery; he ordered me to take ground to the right, to make room

for the remainder of the Facines and Ladders to come up. Shortly after, I heard an order, "take ground to the[31] left," or "left face" I cannot say which; after that was done I ran up again to Col. Mullins; he was at the head of the advance party with Facines and Ladders; he then advanced on, and ordered me to go to the rear and to exert myself to bring up the rear of the party with Facines and Ladders; I went to the rear and brought up as many as I could; he was leading the party on towards the enemy's lines, when I was sent to the rear; when I got up near the head of the column with a few men with Facines and Ladders, the only Officer I saw was Lieut. Knight, and Mr. Brown, a Volunteer, with a few men, but I was not able to join them, on account of the firing and confusion which had taken place.

QUESTION BY LIEUT. COL. MULLINS.

Did not the order given by General Gibbs, "face to the left," after we had passed the gap, place me in the rear?

Answer.—Lieut. Col. Mullins was then opposite the gap, in front of the party, I think about the centre of the party in front, a short distance beyond the advance battery, between it and the enemy's lines; I was then sent to the right; I heard no order given by General Gibbs.

QUESTION BY THE COURT.

If the impression was on your mind, that the Facines and Ladders were in the redoubt, when passing it, why did you not inform Col. Mullins of it?

Answer.—I certainly did not recollect at that moment they were there, or I certainly should have mentioned it.

Question.—Pray, Sir, had you ever been at the redoubt previous to your getting the Facines and Ladders on the morning of the 8th of January?

Answer.—Never; I had been laid up for some time with frost in my feet, and the Surgeon of the Regiment attending me.

EVIDENCE OF THE 1st and 2nd CHARGE ENDED.

COLONEL JOHNSTON—3d Charge read.

Question.—Did you hear Lieut. Col. Mullins make use of the expression imputed to him in the charge, or words to that effect, or conveying the same meaning?

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Answer.—I did not hear Lieut. Col. Mullins say it was a forlorn hope, but that I might expect hard fighting the next morning.

Cross-examined by Lieut. Col. Mullins.

When I used the above expression, was it in confidence, or was there any one present?

Answer.—I cannot say whether it was in confidence or not, nor do I recollect any one being present, or that any one was near us; nor was it, in my opinion, in the hearing of the men.[32]

Question.—Do you recollect, when I assembled the Officers on the evening of the 7th of January, that I said, "although we were the Facine party, we must also storm, and get first into the enemy's lines?

Answer.—I recollect your assembling the Officers and telling them what they had to do; you said they were to place the Ladders and Facines, and then to follow up the orders by firing and storming.

COLONEL DEBBEIGG.—3d Charge Read.

Question.—Did you hear Lieut. Col. Mullins make use of the expression imputed to him in the charge, or words to that effect, conveying the same meaning?

Answer.—I did; he made use of those words to me after I had read the written orders which he put into my hand, on the evening of the 7th January, 1815.

Question.—Was there any one present?

Answer.—There was no one present.

Question.—Was not this conversation confidential?

Answer.—No, I don't suppose it was, as I have heard other Officers say they heard similar expressions from Lieut. Col. Mullins.

Question.—Who were those other Officers?

Answer.—I think I heard Lieut. Knight say so!

LIEUT. KNIGHT.—3d Charge read.

Question. (Same as before).

Answer.—I did, in the evening of 7th January, after he had dismissed the Officers, having given them their orders, he said "the 44th Regt. will have the forlorn hope tomorrow, I think they will catch it."

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Question.—In what manner did he seem to convey this; was it in a desponding way?

Answer.—I do not think it was in a desponding way, he was in very good spirits, and in a very good humour the whole evening afterwards.

Here Lieut. Col. Debbeigg, a former Witness, was by the permission of the Court, allowed an explanation which he thought necessary to his feelings and Character.

He said he had when in London, objected to give evidence as to the 3rd Charge, as he thought it disclosing a private conversation betwixt Lt. Col. Mullins, and himself, but this objection, was overruled, by the Adj. Gen. and Judge Advocate General, therefore, he thought he was bound to answer such questions as were put to him on the charge. He did not hear that other Officers had heard Lieut. Col. Mullins make use of similar expression, to those laid in the Charge, until he arrived in Dublin, when he understood that Lieut. Knight and the Paymaster had heard him make use of similar expressions, in consequence he thought it was no longer private conversation.

PROSECUTION CLOSED.[33]

DEFENCE.

Mr. President, and Gentlemen of this Honourable Court.

SINCE the failure of our attack on the lines at New Orleans, I have been the object of the most unmitigated obloquy, and the detractors of my character, through the agency of the Press, have diffused that obloquy with an unlimited circulation. In these countries, nothing is easier than to raise a cry on any side of a question. I might have resorted to such an expedient, but my cause was too good to be assisted by such arts—too strong, I hope, to be injured by them. I have therefore suffered in silence—I knew that an opportunity of investigation would arise, or should arise before a tribunal, whose members would bring to the enquiry a patient attention, and an ubiased mind; and thence it happens, that now, for the first time, a voice is raised to defend, or explain my conduct. I am arraigned on two principal charges, for to the

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third I shall not now refer, nor shall I at any time do more than merely allude to it. In reply to the first charge, the facts were briefly and simply thus: on the evening of the 7th of January, near the camp before New Orleans, I received certain orders from General Gibbs, relative to the intended attack, among other matters, I was com[35]manded to ascertain where the facines and ladders were, which would be required for the attack on the following morning. On my return to the camp, I instantly ordered Lieutenant-Colonel Johnston to ascertain the place where the facines and ladders were to be found, and to take an orderly serjeant with him to prevent the possibility of any mistake. He returned, and reported to me that all was right, that an engineer officer would attend to regulate the party with the facines, and that they were deposited at the advance battery, handing to me at the same time a paper, saying that the place was marked in pencil thereon. Under this impression, the next morning, shortly after three o'clock, I moved with the regiment towards the advance battery, halting ten minutes at the redoubt, I then arrived at the advance battery, I searched for the engineer officer and facines, traversing the entire length of the battery, from right to left, in the dark. As soon as I had ascertained that the facines, &c. were not there, I instantly reproached Lieutenant-Col. Johnston in strong terms, and in hearing of many of the regiment, for having misled me in this respect. I then proceeded to enquire where in fact they were, and having ascertained they were at the redoubt, which I had passed, I applied to Colonel Patterson, for his permission to march the regiment back to the redoubt, he declined the responsibility, and I was compelled to assume it myself. I immediately sent back the regiment, I remained myself at the advance battery to explain the occurrence to any General officer there,[36] that might arrive in the interval. Lieutenant-Col. Debbeigg, with all possible speed, returned the regiment to me, reporting that all were present with the facines. I instantly placed myself at its head, and then marched down to the gap, at the lower battery, passed through it into the field, before any General officer had arrived at the battery.

The Regiment took its place at the head of the column, with the exception of the covering party, no regiment or party entered the field before mine, and except the officers of that party, no officer entered the field before me. Shortly after the firing com-

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menced, not from the 44th, as charged, but from the British Artillery, as proved.

MR. PRESIDENT, AND GENTLEMEN OF THIS HONOURABLE COURT.

With respect to the second charge, I hope to prove to your satisfaction, that without further loss of time, I led my men to the enemy's ditch, encouraging them throughout by my words, and example, that in the unfortunate contest, I lost not less than three-fourths of my officers, and two-thirds of my men; and that I was not only among the first to enter the field, but among the last to leave it, although wounded.

Such is the case I expect to make, I beg your attention for a short time to the case that has been made against me—I am accused of disobedience of orders, about those facines, &c.—was it disobedience, to have instantly charged a Lieutenant-Colonel with their immediate and careful execution—what is the fact of disobedience—is[37] the deputation of the duty to the Lieutenant-Colonel, the fact of disobedience, or even of neglect of duty—does the crime consist in not discharging the duty in person—was it so expressed in the order: "The Commanding Officer of the 44th, shall ascertain where the facines are." Does this order express, or imply that he should not entrust even a Lieutenant-Colonel with the ascertainment of the place where the facines and ladders were to be found.

It is submitted, that the duty of a Commanding officer, is rather authoritative than ministerial, and that his place is with the regiment, of which he is its head, unless expressly commanded to the contrary.

If the circumstance of deputing the duty be the crime, is it not strange that General Gibbs, when he met Lieutenant-Colonel Johnston on that mission, and discovered the nature of his duty, did not express the slightest surprise to Lieutenant-Colonel Johnston, although he conversed with him, nor convey to me a hint of disapprobation respecting the alledged act of disobedience, although he wrote to me an order at the same time, by Lieutenant-Colonel Johnston.

It is submitted on this part of the case, that the Honorable Court will not now consider that deputation an act of disobedience, or neglect, towards the orders of General Gibbs, who being acquainted with the circumstance, did not consider it so

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himself at the time. If then that act of deputation be justifiable, or excusable, under the circumstance, its nature cannot be altered by[38] the consequences that followed, and what will then be the act of disobedience—you must then resort to the report of Lieutenant-Col. Johnston to me, and it will be necessary for you to believe that he reported that the facines, &c. were at the redoubt, and that I disobeyed by marching to the battery. But Lieutenant-Colonel Johnston himself, does not say so, although it would be a circumstance easy to remember, and important to state, if indeed it were true. His evidence on this point is all negative, all forgetfulness, but you have positive testimony from Lieutenant-Colonel Debbeigg on the subject, for he says positively, that Lieutenant-Colonel Johnston, in his report to me, declared that he believed the facines and ladders were at the advance battery. The question now lies between the redoubt and the battery.

The word advance has been used as common to both, but Lieutenant-Colonel Debbeigg said he was certain that Lieutenant-Colonel Johnston, in reply to a question from me, as to the place where the facines were, positively used the word *battery*, what would put the word battery in the mouth of Lieutenant-Colonel Johnston, if at that moment he was reporting the redoubt—the distinction made all the difference in the world besides the subsequent conduct of Lieutenant-Colonel Johnston, confirms the assertion of Lieutenant-Colonel Debbeigg. He could not have reported to me, that they were at the redoubt, without having that impression on his own mind, and he would not be capable of remaining with[39] me for ten minutes, close to the redoubt, without a single suggestion on the subject, if he even believed that the facines were there, but believing Lieutenant-Colonel Debbeigg—that he, Lieutenant-Col. Johnston, used the word battery, you will believe that this word expressed the impression on his own mind, and then, and then only will his conduct at the redoubt be reasonable and consistent. I will feel it a pleasure, and perhaps you will a duty, to construe all circumstances that may arise in this case, in such way, as will best consist with the honor and character of the witness.

In this manner, it will be quite necessary, for the character of these two officers of rank, that you should believe the word battery was used by Lieutenant-Colonel Johnston, and indicated

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the impression on his own mind, and if so, it is not surprising that he should have contrived to convey that impression on mine.

I therefore submit to this Honourable Court, that I was justifible in sending him to ascertain where the facines, &c. were, and that the impression made upon my mind happens to be the impression which was certainly on his own.

That therefore, though he may have mistaken his duty, I certainly did not mistake his report. Lieutenant-Colonel Debbeigg has also said, that he was ignorant that the facines were at the redoubt, indeed nothing else than his ignorance of that fact would excuse his conduct, in suffering me to pass by the redoubt with the regiment. If then Lieutenant-Colonel Johnston who made[40] the report, and Lieutenant-Colonel Debbeigg, who heard him make it, were both ignorant that the facines were at the redoubt, it is not surprising that I should be of the same opinion.

It has, I admit, been said, that Lieut. Knight reported to Lieutenant-Colonel Debbeigg the fact, that the facines were in the redoubt, and conveyed it on to me through a Serjeant-Major, who is since dead; of this, I can only say, that I know nothing of the circumstances, Lieutenant-Col. Debbeigg himself says nothing of any such conversation—nay, he has said, that he did not suppose that the facines were at the redoubt, but he could not have said so, if he had any recollection of any such conversation. I must ascribe it to some unaccountable misconception, for I cannot imagine that a man of his rank and character, in habits of intimacy with me, and living with me, on my own invitation, in the same hut, would endanger the character of his country, and the army, by refusing to communicate to me my mistake, had he reason to believe that the facts were so.

This conversation would prove too much—in me, it would prove treachery to my country—in him, treachery to his country and his commanding officer—it would prove nothing short of treason against two Lieutenant-Colonels of the British army—it proves nothing, for it would prove too much, but reduces the question to this state, that if you consider me in fault, the title of my transgression is error or treason. In respect to the latter, I should make no reply—in[41] respect to the former, I maintain the purity of my intention, and apply that unanswerable maxim in Ethics, 'that no man is accountable for the errors of his judgment.'

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I am now come to another, and a different charge, I am accused of a deficiency in that spirit, which is in truth, the soul of a soldier.

This charge is of such a nature, that it never should be alleged to a military man, except on evidence nearly unanswerable. There are but three modes of proof, by which this crime could be established—the accused should be seen in the act of Flight, or secondly, should be seen in a different place from the contest at the time of the contest, or lastly, in his proper place, but concealing himself, that is, he should be seen in flight, out of the fight, or in concealment. No one of these three modes have been attempted, but some officers have said that they did not see me in the action, very possibly, the three regiments of our brigade were confused and intermixed—very few of the officers saw each other; one of them at the ditch could see no officer that he knew, and the other could see no officer at all. All the evidence on this charge against me is negative, or inferential; the Major of the 4th says that he saw me passing him from the rear, that is moving to the front, some time after the action had commenced, of course when the firing was vehement. This is true—I had been called to the rear by General Gibbs, Lieut. Knight (no friend of mine) saw me in front of the action, and heat of the battle calling on the men to come forward,[42] but walking, he said, towards the rear—be it so, whether I walked to front or rear, I was in the midst of carnage and danger, for he added, that the firing was excessive, and the men falling in all directions around me—but when did he see me in this situation, a few minutes before the cry of retreat, that is a few minutes before the repulse. This is the only positive evidence supplied by this prosecution, as applicable to the second charge; and you will please to observe, that all that, is positively in my favour. I submit it, that the prosecutor has answered this charge by his evidence, although I shall not rest my defence on that answer to it—I shall produce the best evidence, the eye-witnesses, the men who fought and bled by my side.

Submitting to this Honourable Court the old rule of Testimony, and Common Sense, that the evidence of one man of unimpeachable integrity, who actually saw a fact, outweights the evidence of a cloud of witnesses, who can only say, that they did not see it. Had I been what I am described to be, is it possible that some individual would not have seen me out of the battle, at the

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time of the battle, or in flight, or in concealment. Of all these witnesses on the second charge, only two saw me at all—the one saw me going into the battle, about the time when it began to be fierce, and the other saw me in the front of the battle and midst of danger, shortly previous to its termination. He said, indeed, that I was walking to the rear, but that proves nothing respecting the charge, although it proves some[43]thing respecting the evidence—it gives strength of the evidence of Lieut. Knight, and shews, that when his facts are in my favour, they are entitled to every particular credit.

The Major of the 21st regiment, deposed to this Court, that the three regiments were so intermixed, and the confusion so considerable, that he felt it impossible to give any description or detail, and he discontinued all observation as a thing impossible —and yet much negative evidence has been given against me, subsequent to the commencement of that confusion, and subsequent to the time when General Gibbs report to Sir E. Packenham, that the men refused to follow him. No train of circumstances can be imagined, in which negative evidence should be so very nugatory.

Amongst the painful feelings connected with this charge, few perhaps are more distressing than those which arise from the necessity of being compelled to speak of one's self, but perhaps it would be impossible to suppose an occasion, from which the egotist could extract so strong an apology. After the spring and summer of an active life, devoted to the service in different climates, I am now to answer a charge, repugnant and humiliating to the feelings of a gentlemen, to the spirit of a soldier, to the pride of a man, to the character of an Irishman—"for mine is not the country of dishonour." In reply to this slander on Ireland and on me, I refer to my life, and wrap myself in my character—I appeal to the official report of the gallant and[44] lamented Ross, and of his gallant and distinguished successor. They saw me in action, and felt it their duty to report to the government my conduct, in terms of eulogy.

I shall call upon Colonel Brooke to request, he will state to the Court, the manner in which the 44th and myself did our duty, during the campaign in America.

This Honorable Court will be pleased to admit in evidence, the official reports of the three battles of Bladensburg, Baltimore

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and New Orleans. The two first, for the purpose I have mentioned—the last one I apply to the first charge.

I attributed the disaster at New Orleans to a varity of unforseen and unfortunate fatalities. But an opinion appears to prevade this prosecution, that there was but one cause for the disaster, and that I was its author.

The facines, and attendant circumstances, are assigned as the sole and exclusive cause for this repulse. I put in evidence the official dispatches of General Lambert, reporting this repulse and its causes, to the government.

Is it not strange, that the cause here assigned for the disaster, never seems to have occurred to General Lambert. I am not here discrediting any gentleman—I do not question their facts, but I have a right to question any man's opinion without being guilty of a disrespect, more especially, when their opinions are made evidence against me.

A prior, or at least simultaneous attack, was[45] intended on the battery on the right bank of the Mississippi, but it was not taken till after the repulse, this battery commanded the field on our advance—did this contribute nothing to the repulse. Some witnesses think not, and yet Gen. Lambert, who should be the best acquainted with the circumstances, reports to the government, that the simultaneous attack on the right bank, was a circumstance of the last importance to the attack on the left.

I merely submit that it was of some importance, indeed if it was not, why expend eight or ten days cutting a canal to facilitate an attack on it.

Was there no military obstacle to oppose us, as a young officer said—why then did we not succeed in the previous attack on the 28th of December.

Did the circumstance connected with the facines and ladders cause the repulse—their utility could only operate at the ditch, but the repulse took place before the column reached the ditch. General Gibbs had reported to Sir Edw. Packenham, that the men would not follow him, the repulse had then commenced, and the column, as a body never passed the spot where Sir Edward fell.

What then was the cause of the repulse, manifestly the fire of the enemy,—who then alarmed the enemy, and brought the fire prematurely on us, it is charged it was the 44th Regiment, but it is proved it was the British artillery.

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Was it the firing, or the day-light brought on by the delay imputed to me, that gave the alarm to the enemy—I shall prove on unquestionable[46] evidence, that when the British artillery commenced firing, it was dark, and as they were immediately answered by the American artillery, of course, the day-light resulting from any delay, could not have brought on that premature fire from the enemy, to which I conscientiously ascribe the repulse of our column.

Of the last charge I know nothing, my opinion was sanguine as to the success of the attack, and all my conversations in evidence indicate that opinion; it is at worst, a conversation in private with an officer of equal rank with myself—he has referred to another gentleman, but the evidence of that gentleman is quite different. At all events, the conversation could not work mischief, except through the agency of him to whom it was addressed.

My case is now closed, I commit everything connected with my honor and character, to the consideration of this enlightened and highminded Tribunal, in full confidence of receiving that justice at their hands, which, I hope, my cause will give me title.

THOMAS MULLINS,
Lieut. Col. 44th Regt.[47]

WITNESSES FOR THE DEFENCE.

COLONEL BROOKE, Sworn and Examined.

Question.—Did you command the right Brigade at the Battle of Bladensburg on the 24th August last?

Answer.—I did.

Question.—Did I command the 44th Regiment in your Brigade on that day?

Answer.—Yes.

Question.—Did I request permission of you to shew a front to the enemy with 3 companies while the remainder of the Regiment were coming up?

Answer.—You certainly mentioned something of the Circumstance to me at the moment.

Question.—How did I and the 44th Regiment discharge our duty on that day?

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[47]Original Pagination.
[48]Was the reverse of 47 and was a blank

Answer.—It met with high approbation from Major Gen. Ross, as expressed by him in his thanks to the Army the next day, in which he mentions particularly Lieut. Col. Mullins, and the 44th Regiment for their spirited conduct in turning the left Flank of the enemy.

Question.—On the Death of Major General Ross, was you Commander of the Forces in the Cheseapeake on the 12th September, 1814?

Answer.—I was.

Question.—Did you appoint me to command the right Brigade on the 12th September, previous to the Battle on that day?

Answer.—I did.

Question.—Will you please to inform the Court, how I performed the duty on that day?

Answer.—The Brigade Lieut. Col. Mullins commanded, consisted of the 44th Regiment, and about 3 companies of Marines on the right, and about 100 Seaman on the left, with which he forced the Enemy's Center, in the most *gallant*, and *correct* style I ever saw Troops move in, and that under a tremendous fire of Musketry and Grape, which was particularly remarked by Admiral Sir George Cockburn, who was looking on at the same time, in consequence of this, I was induced to mention Lieut-Col. Mullins, in the warmest terms of approbation, in my Dispatches to Lord Bathurst, detailing the events of that day.[49]

Question.—Were these the words of your Dispatch? (shewing him at the same time the Gazette).

Answer.—Yes, these were the words of my dispatch.

CAPTAIN HAYNES, Royal Navy.

Question.—Did you on the 8th of January last, bring me a message from General Gibbs, to halt and a face the Regiment to the right about, when the whole Regiment was beyond the advanced Battery through the Gap?

Answer.—Yes Sir, something to that effect, the Regiment had taken the wrong road.

Question.—Was not the rear of the Column of the Regiment, the right being in front, faced to the right about before you gave me this order, and was there not confusion occasioned by the order?

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Answer.—Yes, the rear division were faced to the right about, and there was considerable confusion in the column.

Question.—Did I not stop to speak to General Gibbs, at or about this time?

Answer.—I did not observe, I cannot say.

LIEUT. PHELAN, 44th Regiment.

Question.—Where did you join the 44th Regiment on the morning of the 8th January last?

Answer.—At the advanced Battery, the company I commanded, had been on piquet, I went to look for them, and not finding them, I went to join the Regiment, which was at this time at the advance Battery.

Question.—Did you hear high words pass between Col. Johnston and myself, when you arrived at the battery?

Answer.—I did, but cannot say what they were, or what the subject was, as I turned my back immediately on hearing them.

Question.—Was it light or dark when the 44th Regiment passed into the field through the gap?

Answer.—It was dark; I could just observe the day beginning to break.

Question.—Who began the firing on the morning of the 8th of January?

Answer.—The British Artillery.

Question.—Was it dark at this time?

Answer.—It was dark at this time.

Question.—Did you make any particular observation on the effect of the British Artillery at that time?

Answer.—I did, it being dark, I could discern the balls striking the ground, causing a sort of blue light in the front of the enemy's lines, and I mentioned it.[50]

Question.—Did you understand, that after the Regiment had passed the gap at the advance battery, that orders were given for the 44th Regiment to face to the right about?

Answer.—I did not hear any such order, I pushed on with the company I commanded, towards the enemy's lines; I did not hear any order.

Question.—Did you see any officer of the 44th Regiment in the field, after you so pushed on?

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Answer.—No Sir, none; I saw no Officer in front of me; I never looked to the rear.

QUESTION BY SR. F. STOVIN, THE PROSECUTOR.

Did you know that the 44th Regiment was destined to carry the Facines and Ladders, on the morning of the 8th of Jan.?

Answer.—I did.

Question.—Had you any reason to know where the Facines and Ladders were deposited?

Answer.—O Yes, I knew they were in the redoubt, on the 1st of January; I was one of the party employed to carry the Facines and Ladders, on the intended attack on that day; I saw them lodged in the redoubt.

Question.—Was it generally known throughout the 44th Regt. that the Facines and Ladders were in the advance redoubt?

Answer.—I have reason to think that some of the Officers of the 44th knew they were there, but I cannot answer for the whole.

Question.—You have said that the British Artillery began the firing first; was there not some random shots fired by the 44th Regiment before this?

Answer.—There were none.

Question.—When you joined the Regiment at the advanced battery, and found the 44th had not the Facines and Ladders in possession, did you make any observation thereon?

Answer.—I thought there was a countermand, and some other Regiment was destined for that duty.

Question.—Had the Rocket signal of attack been thrown up before the Artillery commenced firing?

Answer.—Yes, it had.

Question.—Did firing commence from the 44th Regiment immediately after the Artillery, and was it in a disorderly manner?

Answer.—No, the 95th first commenced the Musketry firing, they formed the covering Party.

QUESTION BY COL. MULLINS.

Where was the 95th when the 44th moved on to the attack?

Answer.—The party I was with, passed over them, when they advanced some distance they lay down.[51]

Question.—Do you think Lieut. Col. Debbeigg was on an amicable footing with me, or had a friendly feeling for me.

[51]Original Pagination.

Answer.—There was always a misunderstanding between Lieut. Col. Debbeigg and yourself, but I cannot say whether the former felt hostile to Lieut. Col. Mullins.

QUESTION BY THE COURT.

Did Lieut. Col. Mullins receive that zealous support from Officers of the 44th Regiment which was due to him?

Answer.—From the greater part of them, I think he did, I cannot answer for all.

Question.—Were there any, from whom, in your opinion, he did not.

Answer.—I do not know of any, no instance came within my knowledge.

Question.—When you advanced in front, how many men were with you, and did you reach the enemy's lines?

Answer.—There were a few of the Grenadiers of the 44th in front of me, carrying Ladders, the men with me, about 100 carried Facines, I did not reach the Ditch, I was wounded and could not proceed.

Question.—Had day light appeared at this time?

Answer.—It certainly had, it was quite day light when I was wounded.

SERJEANT MICHAEL DENNISON, Grenadier.

QUESTION BY COL. MULLINS.

Did you see me close to the enemy's Ditch, on the morning of the 8th of January last?

Answer.—I did.

Question.—Did you see any men of the Grenadiers killed close to me, in the act of planting Ladders in the Ditch, if you did, name them?

Answer.—I did, O'Neal, Cooney, Sullivan and Callaghan.

Question.—Was I the last that quitted the Field on that morning, with a few men?

Answer.—You were Sir, the last Officer that I saw quitting the field.

Question.—On seeing me retiring with the remains of the Regiment, did you not come out of the woods, to speak to me, and if so, what did you say?

Answer.—I came to shew you the way to where the Regiment was in the wood, my Brother, was your orderly, and I thought he was killed.

QUESTION BY COL. STOVIN.

You have stated that you was with Col. Mullins at the enemy's Ditch, and saw some Ladders placed, and afterwards you came out of the Wood to shew him his way; how came you to retire before him?

Answer.—I retired with the 21st and 4th Regiment, he was in front, and I was in the rear.[52]

Question.—As you returned with the 21st and 4th Regiments there, how could you see Lieut. Col. Mullins, as the last Officer that left the Enemy's Ditch?

Answer.—I saw him retiring, and my Brother being his Orderly, I thought he was killed, and I went to enquire, and the Men told me he was in the rear, with Col. Debbeigg.

Question.—Did you see any other Officer besides Col. Mullins, when the Ladders were planting?

Answer.—Yes; I saw Lieut. Knight of our Company, and Brigade Major Wilkinson.

Question.—You have said, that Col. Mullins was close to the Enemy's Ditch; was he nearer to you, or to Mr. Knight?

Answer.—Lieut. Knight was nearer to Col. Mullins than me, he was within 10 or 12 yards of him, Colonel Mullins was in the rear, Lieut. Knight in front.

Question.—Was the Ladder placed, or thrown into the Ditch?

Answer.—I saw one Ladder laid across by 4 men, and some Facines thrown into the Ditch; the 4 men that went up with the Ladder were killed; the Ladder that was laid across the Ditch, was not planked a Ladder.

SERJEANT GOWE, Grenadiers, 44th Regt.

QUESTION BY LIEUT. COL. MULLINS.

How near the Enemy's Ditch did you see me on the Morning of the 8th January, 1815?

Answer.—About 12 or 14 yards from it, as far as I could judge.

Question.—Were we losing a number of our men at this time?

Answer.—Yes, we were.

Question.—Relate what duty I sent you on that day, and if you executed it?

Answer.—You ordered me to go to the rear, and tell the Adjutant, or any other Officer, if any men were straggling behind,

[52]Original Pagination.

to send them up to him; I saw the Adjutant, and delivered the message, by this time, the action had ceased, and the Adjutant marched the men to the Wood, to join Lieut. Col. Mullins.

QUESTION BY THE COURT.

After collecting the Facines, at the advance Redoubt, did the Grenadier Company lead up, or bring up the rear of the column.[53]

Answer.—They brought up the rear, and after passing the Gap, at the advance Battery, a change of position took place, by order of an Aid de Camp, and the Grenadier Company then became the leading Company; Col. Mullins came running up to the head of the Regiment, in front of the Grenadier Company; very soon after this, he desired me to hurry on as fast as I could; the Section I had, carried Facines, and he said they would be wanted first; it was nearly dark at the time?

Question.—At the time this change of position took place, had the day broke?

Answer.—No, it was dark at that time.

Question.—Did you arrive at the Enemy's Ditch?

Answer.—I did, I carried a Facine into the Ditch, that was dropped by a man killed on the way; I heard Col. Mullins say, the Facines were wanted first, so I carried it.

Question.—Did you arrive at the Enemy's Ditch, and if so, did you see any Facines and Ladders regularly placed?

Answer.—I saw a few Facines and 1 Ladder placed across the Ditch, by the 44th Regiment.

Question.—When, as you state you saw Lieut. Col. Mullins within 12 yards of the Enemy's Ditch, did you see any other Officer of the 44th or any other Regiment?

Answer.—I saw Lieut. Knight, he was the only Officer I saw, he was within 12 or 14 yards of Col. Mullins, on his right, that is, between me and Col. Mullins.

Question.—How many men of the Grenadiers reached the ditch with you?

Answer.—About 6 or 7 of my section, and 4 came afterwards with a double Ladder, and placed it.

Question.—Had any other part of the Grenadiers arrived at the ditch before you?

Answer.—We, and the section before us, were the first that arrived at the ditch.

[53]Original Pagination.

Question.—Was it day light then?

Answer.—Not quite; a person could not be distinguished at any distance.

ADJUTANT BARRY—44th Regiment.

Question.—Did you receive a message from me during the action of the 8th of January, by Serjeant Gowe; what was it, and at what time did you receive it.

Answer.—Yes Sir; that I was to go to the rear and bring up the men with the Facines and Ladders, which I did; at this time we had been some time engaged.[54]

Question.—What is the character of Serjeant Gowe, and Serjeant Michael Dennison?

Answer.—They are very good men, and of very good characters.

QUESTION BY THE COURT.

When the 44th was in action, was you sent by Captain Love to bring up a few men of the 44th, and did you see Col. Mullins, and where was it, and what did he say to you?

Answer.—As the men were retreating from the enemy's lines, Captain Love sent me to bring a party of our Regt. to join the Brigade, under cover of the Wood, which he saw at some distance in the rear; I went, and Lieut. Col. Mullins was with them, on the skirts of the Wood, in the rear of the army on the right; Col. Mullins asked me how I escaped.

Question.—When you left the head of the Regiment to deliver the message to Lieut. Col. Mullins, from Captain Love, who was leading the Regiment up to the enemy's lines at that time?

Answer.—I cannot say.

Question.—Did you see Col. Mullins at the ditch or at the head of the 44th Regiment, at any time during the action?

Answer.—From the time the Facines and Ladders were taken out of the redoubt, I did not see him till I was sent to the rear by Captain Love.

Question.—Was not Serjeant Michael Dennison reduced by the sentence of a Regimental Court Martial at that time, and soon after reinstated?

Answer.—To the best of my recollection he was suspended, he was not reduced, he was tried for striking a Soldier.

[54]Original Pagination.

Question.—Were you present on the evening of the 7th January, when Lieut. Col. Johnston reported to Col. Mullins where the Facines and Ladders were to be found, and gave him a paper pointing it out?

Answer.—I was present, I saw him deliver a paper, some conversation passed, but I did not hear it.

Question.—Were you apprized by Lieut. Col. Mullins, on the evening of the 7th of January, or the morning of the 8th, before the Regiment marched off, where the Facines and Ladders were deposited?

Answer.—I was not.

Question.—Did you know, or had you any reason to know before the Regiment marched off, where the Facines and Ladders were deposited?

Answer.—I did not.[55]

Question.—Did you know the 44th were destined to carry and precede the column of attack, with Facines and Ladders?

Answer.—I did.

Question.—Knowing the 44th were destined to carry the Facines and Ladders, did you not consider it your duty, as Adjutant of the Regiment, to enquire where they were?

Answer.—I understood the Field Officer had made the necessary arrangements the Evening before; I was told so, and I did not ask any questions; after we passed the Redoubt without getting the Facines and Ladders, I expected we should find them at the advance Battery.

QUESTION BY THE COURT.

By whose order, and for what reason was the Regiment halted at the advance Battery?

Answer.—Colonel Mullins halted the Regiment there, to have 100 men told off, to join the 95th Regiment, the covering party.

Question.—At what time did the Facines and Ladders arrive at the Ditch, as above stated, was it day-light?

Answer.—The day was breaking.

Question.—Did you see any of the Facines and Ladders properly placed in the Enemy's Ditch?

Answer.—No, I did not; I was not up quite at the Ditch, I was very near, within about 12 or 14 yards.

Question.—At the time the 44th Regiment passed the advance Battery, was it in Column, right or left in front, and did any change take place almost immediately after?

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Answer.—They were left in front, no regular counter-march took place afterwards; after we passed the advance Battery, with the Regiment, it inclined to a flank to clear some other Regiment, the Brigade was then in Columns of Regiments, the 44th were endeavoring to regain the position they had lost by going back for the Facines, &c.

Question.—Was the 44th Regiment the first that passed the Gap, at the advance Battery?

Answer.—I cannot say, for I was not up at the time, I came up immediately afterwards, before a shot was fired.

Question.—How was the Column of the Regiment advancing, when you came up, was it left or right in front?[56]

Answer.—I cannot say; there was a great deal of confusion, but I believe the Grenadiers were leading.

Question.—When the 44th halted and laid down, at what distance was it from the advance Battery?

Answer.—Some of them were in it.

Question.—What was the original cause of, or by whose order was the 44th Regiment halting there?

Answer.—It was halted by Col. Mullins; the Brigade Major came up immediately after, and enquired of Col. Mullins, where the Facines and Ladders were; Colonel Mullins answered, he had expected to find them in this Battery, some further conversation passed, which I did not hear.

Question.—How long had the Regiment halted at the advance Battery, before it was sent back for the Facines and Ladders?

Answer.—Twenty minutes or more.

Question.—Did you receive any order, or instructions from Col. Mullins, in consequence of the Brigade Major coming?

Answer.—I did not.

Question.—What orders were given to your knowledge by Col. Mullins, when the Regiment was sent back for the Facines and Ladders?

Answer.—I cannot say; the order was given by Col. Mullins to Lieut. Col. Debbeigg, who took back the Regt. for the Facines, &c.

Question.—State now, in your opinion, whether Lieut. Col. Mullins might have been in front in the action, before you saw him in the rear, when sent by Captain Love?

Answer.—Most decidedly he might.

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[56]Original Pagination.

Question.—At the time you say you saw Col. Mullins on the skirts of the Wood, had the action closed?

Answer.—Yes, some time.

Question.—How far was it from where you were sent by Captain Love, and how long would it take to reach Col. Mullins?

Answer.—The distance was about three quarters of a mile; I was about 18 or 20 minutes reaching the place.

Question.—Was the action over when Captain Love sent you to Col. Mullins?

Answer.—The men had retreated from the enemy's lines, the action was over.

Question.—Can you say whether Lieut. Knight had fallen back, at the time you was sent with the message from Captain Love to Col. Mullins?[57]

Answer.—I cannot say as to Lieut. Knight, the whole army had retreated.

QUESTION BY THE COURT.

Was not Col. Mullins Field Officer of the Piquet, on the night of the 1st of January; and was not his station in the advance redoubt?

Answer.—Lieut. Col. Mullins was frequently Field Officer of the day; his station was, I think, in the advance redoubt.

Question.—Did you know that the battery was dismantled on the night of the 1st of January and was not occupied again, except by the Patroles at night?

Answer.—I did.

Question.—As you knew that the battery was dismantled, had you not strong reasons to think that the Facines and Ladders were not deposited there?

Answer.—I formed no idea at the time; we had Patroles that went to the advance battery.

QUESTION BY COL. MULLINS.

Do you know if I sent any person into the redoubt when we halted there, for a guide?

Answer.—I understood there was a Serjeant sent into the redoubt, for a Serjeant of the Artillery to come and conduct the Regiment to the advance Battery, and a Serjeant of Artillery did come out to conduct us accordingly; I cannot say by whom he was sent; I heard an Officer of the 95th say to Col. Mullins, that

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by sending into the redoubt, he would get a Serjeant of Artillery to conduct us to the battery.

Question.—How soon after the Serjeant of Artillery came out of redoubt, did the column advance, and did you see that Serjeant acting as a guide to the advance battery?

Answer.—Soon after; as soon as we told off 100 men; we made no other delay; the Serjeant of Artillery led us; Col. Mullins was at the head, and Major M'Auley was the Officer of the leading Company.

Question.—What Officers, besides Lieut. Col. Mullins, were there in front, when advancing from the redoubt to the advance battery, and what Officer commanded the leading Division?[58]

Answer.—There were no Officers in front with Col. Mullins but myself; Brigade Major M'Auley commanded the leading Division.

Question.—You have stated that the Serjeant of Artillery came out to shew you the way to the advance battery; was not this road well known to you and the Regiment?

Answer.—It was dark, and I had never been the Road before.

Question.—When the Serjeant of Artillery came to Col. Mullins, did you hear any conversation pass between Lieut. Col. Mullins and him, or did Col. Mullins question him, in your hearing?

Answer.—I did not hear any, when the Serjeant joined the head of the Column, I was in the act of telling off the 100 men, to join the 95th.

QUESTION BY THE COURT.

Can you state the orders issued for the guidance of the Field Officer, and can you state where his station was?

Answer.—I understood he was to visit the Line Sentries, his station was, I think, at the advance Redoubt; the main body of the Piquet was always there, I now remember an Officer of ours being killed at the Redoubt, at the side of Lieut. Cal. Faunce, Field Officer of the Day.

Question.—Do you know whether Col. Mullins was Field Officer of the Day, on the 1st of January, or any other day subsequent to the 8th?

Answer.—I cannot say.

[58]Original Pagination.

MAJOR M'AULAY, 44th Regiment.

QUESTIONED BY LIEUT. COL. MULLINS.

When you were at the advance Battery, did you not express anxiety as to the place where the Facines and Ladders were, and how was that anxiety removed?

Answer.—I did, on our arrival at the advance Battery, I told Col. Johnston, I was afraid there was some mistake about the Facines, &c. as I had not heard, or seen anything of them, or words to that purpose, Lieut. Colonel Johnston answered me in a low voice, he desired me not to be uneasy, as an Engineer would come and shew us every thing.

Question.—Did an amicable understanding exist between Lieut. Col. Debbeigg, and Col. Mullins, or do you think he had a friendly feeling towards him?

Answer.—Previous to the 8th January, Col. Mullins and Col. Debbeigg, lived together in the same Hut, consequently, I suppose, they were on good terms, after that period I thought otherwise.[59]

QUESTION BY THE COURT.

On the morning of the 8th January, when the 44th were ordered back for the Facines, &c. where was Col. Mullins, and what was he doing, or about to do?

Answer.—I did not see him at that time.

Question.—Was the 44th Regiment properly formed, with the Facines and Ladders, and were they properly led by Col. Mullins?

Answer.—They were not properly formed, I cannot say how they were led, my Company brought up the rear.

Question.—Did you see Col. Mullins at any period, during the Action?

Answer.—I did not.

QUESTION BY THE COURT.

Do you know that a Serjeant of the 44th was sent into the Redoubt, for a Serjeant of Artillery, to conduct the Regt. when first advancing?

Answer.—I did not.

Question.—As yours was the leading Division, did you see a Serjeant of Artillery at the head of the Column?

Answer.—I think I saw some person in Uniform of Artillery, it was dark, and I cannot recollect.

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Question.—Was Col. Mullins at the Head of the Column, at this time?

Answer.—Yes, he was.

Question.—Do you think you can say, that this person preceded the Column until it halted at the advance Battery?

Answer.—He preceded it part of the way, but I cannot say he did the entire way.

Question.—How long was the Regiment halted at the advance Battery, before it was sent back for the Facines and Ladders?

Answer.—At least half an hour.

Question.—When you marched back for the Facines and Ladders, had the 21st and 4th Regiments taken their position at the head of the column of attack?

Answer.—The 21st Regiment was in close column in our rear; I cannot say, as to the 4th.

Question.—At the time that part of the 44th Regiment with Facines and Ladders came up to the advance battery, was the 21st and 4th Regiments still there?

Answer.—As we came up, the 21st was moving on; the 4th at that time I did not see, it was not light; I afterwards found the 4th Regiment were then in our rear.[60]

Question.—At the time you came back and found the 21st in motion, had the signal Rocket of attack been thrown up?

Answer.—It had, just about that time.

Question.—Did that part of the 44th reach their position in column, in front of the 21st Regiment, before they came under the enemy's fire?

Answer.—My Company did not gain the head of the 21st Regiment; I cannot say; I was in the rear.

Question.—Was the 44th right or left in front after passing the gap, or was there any change of position immediately afterwards?

Answer.—We were in column, right in front, we obliqued to the right, my position was not changed.

Question.—At the time this obliquity took place, was there a degree of irregularity or confusion?

Answer.—There was no confusion at the time, except that we were never formed and moving on.

Question.—Were you Field Officer of the day, at any time from the 1st to the 8th of January last; and if so, was you ever in the advance redoubt?

[60]Original Pagination.

Answer.—I was not, I believe, during that period, to the best of my recollection, on the 1st of January, I was in the redoubt with my Company; being one of the Companies that brought the Facines, &c. and lodged them in the redoubt; Lieut. Col. Jones commanded the party.

Question.—Had you not therefore reason to conclude that the Facines and Ladders which the 44th were to carry, on the 8th Jan. were those you had lodged in the redoubt on the 1st of January?

Answer.—I had, but I was not certain they were still remaining in the redoubt, on the 8th, some subsequent arrangement might have taken place.

Question.—Had you any conversation with Lieut. Col. Mullins, in the evening of the 7th, or morning of the 8th, as to the place where the Facines and Ladders were deposited that the 44th were to carry?

Answer.—I had no conversation.

Question.—Was you not aware, that Col. Mullins had sent Col. Johnston to know where the Facines, &c. were deposited?

Answer.—I understood so, but I had no direct knowledge of it.

Question.—Were not the Facines and Ladders visible in the redoubt to any person that went in?[61]

Answer.—They certainly were visible, it was impossible for any one to go in without seeing them.

Question.—Had you not reason to know the Facines, &c. could not be at the old batteries, where the 44th Regt. marched to, expecting to find them?

Answer.—I had not read the instructions at that time.

Question.—When, or how soon after, did you read the instructions, and from whom did you get them?

Answer.—I never read them, I got knowledge of them from Adjutants and other Officers.

Question.—You have said that Col. Jones commanded as Field Officer at the redoubt on the 1st of January, can you say who relieved him, as Field Officer, and where?

Answer.—Lieut. Col. Mullins relieved him on the morning of the 2nd of January, between twelve o'clock and day light; when I left the redoubt, I understood Lieut. Col. Mullins was in it; when Col. Mullins arrived I was outside, there not being room;

[61]Original Pagination.

Lieut. Col. Jones was inside, with the 21st and 4th Regiments; I did not, myself, see Col. Mullins at any time in the redoubt.

Question.—Is the Court to understand, that Colonel Mullins was Field Officer of the Day, or that he was absolutely in the Redoubt?

Answer.—I understood he was absolutely in the Redoubt.

Question.—Was not the Redoubt, the station of the Field Officer?

Answer.—It was that which was supposed to be, if not called away on other duty, I understood so.

MAJOR KIPPING, a former Witness called.

Question.—Were you Field Officer of the Day, on the 2nd January, and by whom was you relieved?

Answer.—I was not Field Officer, but I was stationed as 2nd in Command, under Lieut. Col. Jones, who commanded the Facine party at the attack, on the 1st of January, which party, was the Piquet at the Redoubt that Night, which was relieved by Col. Mullins, on the Morning of the 2nd January, after 12 o'clock.

Question.—Did you see Lieut. Col. Mullins in the Redoubt, before you returned to your Camp?

Answer.—I did not see him in the Redoubt, I saw him outside, the space within the Redoubt was not large enough, we paraded outside.[62]

Question.—In the way, or where the Ladders, &c. were deposited in the Redoubt; do you think it possible for any Officer, or Soldier to go in without seeing them?

Answer.—Impossible; they were laying scattered in all directions, within the Redoubt.

Question.—Where did you consider the station of the Field Officer on the 1st of January last, and where was he most likely to be found, unless absent on particularly duty?

Answer.—In the Redoubt.

SERJEANT GOWE, a former Witness, here called, by Lieut. Col. Mullins.

Question.—When I sent you with a message to the Adjutant, where did you find him?

Answer.—I found him in the rear, in line with, and on the right of the advance Battery, coming on, with a party of men.

[62]Original Pagination.

ADJUTANT BARRY, a former Witness.

QUESTION BY THE COURT.

Did you receive more than one message from Col. Mullins, desiring you to bring up the men in the rear?

Answer.—Yes, I think I did, and to the best of my recollection, there was 2 or 3 messages.

QUESTION BY THE COURT.

At the time you received the first message, where was you?

Answer.—I was then with Lieut, Knight, in the act of raising a Ladder, as I have before stated.

Question.—At the time you received a second message, where was you?

Answer.—I was going to the rear, and some wounded men with me going to the Rear.

SERJEANT KEATING, 44th Regt. Called by Col. Mullins.

Question.—Did you belong to the covering party on the morning of the 8th January?

Answer.—I did Sir.

Question.—What direction did that party take, and did the party cover our front after we passed the advance battery?

Answer.—Our first order after passing the gap, was to extend our files on the right; and in moving, we obliqued to the right, I cannot say what was doing in the rear, but I[63] suppose that movement would put us entirely from the front of the column.

Question.—Did the covering party, of which you formed a part, as far as you saw, go into the wood immediately after moving?

Answer.—They did Sir, as far as I could see, which was the part of the 44th I was with, about 50 or 60 file of the 95th on our left; I cannot say for the rest, from the direction the covering party had taken. I saw afterwards, when a Prisoner, that they could not have covered the column in the rear.

Question.—Did you see Lieut, Knight, if so, state where, and at what time?

Answer.—I saw him come into the Wood; when I first observed him, he was alone*, after the very heavy fire had slackened.

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[63]Original Pagination.

*This in some measure accounts for his not recollecting the Names of the three Grenadiers.

Question.—Had the action ceased at the time you saw Lieut, Knight come into the Wood?

Answer.—It had not; the firing continued for some time after.

QUESTION BY THE COURT.

Were those files of the 95th men you saw, in close or extended order.

Answer.—They were extended, as far as I could see.

Question.—Had not the greater part of the army retreated, when you saw Lieut. Knight in the Wood?

Answer.—I cannot answer as to that, I was posted in the Wood?

Question.—Was Col. Mullins in the Wood?

Answer.—I did not see him until two hours after the action.

CORPORAL SHEA.—44th Regiment.

QUESTION BY COL. MULLINS.

Did I send you with a message to the rear, during the action of the 8th January, and state what that message was?

Answer.—He sent me to the rear to desire any Officer I could find to bring up the men.

Question.—What distance was the Regiment from the enemy's lines at this time?[64]

Answer.—About 15 or 16 yards, as near as I can guess; we had been nearer, but at that time had inclined a little to the right.

Question.—How many men had fallen when you was sent to the rear?

Answer.—A great many.

Question.—Did you see any Officers in the rear when I sent you there?

Answer.—None but Lieut. Smith, who was wounded.

Question.—Did you join me again in front of the Regt. after delivering the message?

Answer.—No; the Regiment had retreated at that time, as well as the whole army, and had taken shelter in the Wood.

Question.—Did you hear me cheer and encourage the men during the action?

Answer.—Yes Sir, you did, you had your Hat in one hand, and Sword in the other, cheering the men up.

[64]Original Pagination.

QUESTION BY THE COURT.

When you was sent to the rear by Col. Mullins, did you see no other Officer of the 44th, before you got clear to the rear?

Answer.—I saw none but Lieut. Smith, who was wounded.

Question.—You state that Lieut. Col. Mullins was at the head of enemy's ditch; was there any other officer near him at that time?

Answer.—None that I could see; I saw Lieut. Knight a little before that; I was attached to the Grenadiers on that day.

Question.—How many men composed the party, of which Col. Mullins was at the head?

Answer.—I dare say 100 men.

CORPORAL SHIELDS, 44th Regiment.

Question.—Were you close to men in action, and what did you observe, on the 8th January?

Answer.—I was; you was at the head of the Regiment encouraging the men towards the enemy's lines.

Question.—Were you not severely wounded, and how close were you to me at the time?

Answer.—I was wounded close in the rear of you.[65]

QUESTION BY THE COURT.

How near was you to the enemy's lines, when wounded?

Answer.—I was within 10 yards of them.

Question.—Was any other Officer, besides Lieut. Col. Mullins, at or near the head of the 44th Regiment, during the advance, until you was wounded?

Answer.—I saw Lieut. Knight about 10 minutes before I fell, in the rear of Lieut. Col. Mullins, 10 paces, he was with a party of his company.

Question.—Did you see any Engineer Officer in front, as you advanced to the enemy's lines?

Answer.—None.

JAMES BROWN.

Question.—Did you see me at the enemy's Ditch, and how close?

Answer.—To the best of my judgment, 15 or 16 yards.

QUESTION BY LIEUT. COL. MULLINS.

What message did I send by you, to the rear?

[65]Original Pagination.

Answer.—You desired me to run to the rear, and if I met with the Adjutant, or any other Officer, to bring them up to him.

Question.—At the time you was sent to the rear, did not the 21st and 4th Regiments press on the 44th, and was not there great confusion?

Answer.—The Regiments were mixed together at the time, there was confusion, several men were lying dead, and some running one way, and some another.

QUESTION BY COL. MULLINS.

Did you come out of action with me on the morning of the 8th January?

Answer.—I did.

Question.—Were we the last of the Regiment that came out of the field?

Answer.—Yes, I saw none remaining in the field, when Lieut. Col. Mullins and a few men and I left the ground, belonging to the Regiment, except those who were killed or wounded.

Question.—Where did we retire to?

Answer.—To the edge of the Wood.

Question.—Do you recollect seeing Serjeant Michael Dennison at any time that morning.[66]

Answer.—I saw him, when we got to the edge of the Wood, he had joined us before we got there.

Question.—Did you hear me speak to the men during the action, and what did I say?

Answer.—I did, you said you would cut down the man that would let his Facine and Ladder fall, he had his hat off at the same moment cheering.

QUESTION BY THE COURT.

How near was you to the enemy's Ditch, when you retired to the Wood with Col. Mullins?

Answer.—I was about 12 or 15 yards from the Ditch.

Question.—Did you see any other Officer when you so retired?

Answer.—Not one Officer near us, of any Regiment.

THOMAS WREN, Private, 44th Regiment.

CALLED BY COL. MULLINS.

Question.—Did you come out of action with me, and did we leave any of the 44th Regiment behind us?

Answer.—I did come out of action with you, and none of the 44th were left except those wounded.

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Question.—Where did we retire to?

Answer.—To the side of the Wood.

QUESTION BY THE COURT.

How near was you to the enemy's Ditch, when you began to retire?

Answer.—Close up, so near that I threw a Facine into the Ditch?

Question.—Was there any Officer near, when you began to retire?

Answer.—None but Col. Mullins, nor did I see any, we met the Adjutant coming up, with a few more men, as we were going to the rear.

SERJEANT WILLIAM DENNISON, Grenadier.

CALLED BY LIEUT. COL. MOLLINS.

Question.—Was you my orderly Serjeant in action on the morning of the 8th January last?

Answer.—I was.

Question.—When the 44th Regiment passed into the Field through the Gap, in front of the advanced Battery,[67] did any change take place in the formation of the Regiment, and what was the change and cause of it, according to your observation?

Answer.—When we got past the gap, the word was given to wheel to the right, in front of the Field Pieces, then we got the word halt, front, and left face, Lieut. Col. Mullins ran from right to left as fast he could, and I along with him, when we got up to the left, Gen. Gibbs said something to Col. Mullins, and ordered him to go in front of the Regiment, I cannot say what was the cause of this movement, the word was passed from the rear, when I was in front.

Question.—Was it I that first gave the order for the Regiment to face to the left?

Answer.—No; it was passed from the rear first.

Question.—Did I stop to speak to Gen. Gibbs in the rear of the 44th Regiment, when in front of the advanced Battery, and was not the Regiment in motion at that time?

Answer.—You did, the Regiment was moving on at the time.

Question.—Did I not go immediately to the head of the Regiment, when I was done speaking to Gen. Gibbs?

Answer.—Yes you did.

[67]Original Pagination.

Question.—Did I send you with a message to the rear, during the action, when near the enemy's Ditch, to whom was it sent, and was it delivered?

Answer.—You did give me a message, it was to the Adjutant, I did not deliver it, as I did not see him, before I could see him, Col. Debbeigg, took me out of the Field with him, up to where the wounded men were dressed by the Surgeon.

Question.—What was the substance of the message to the Adjutant, and did you communicate it to Col. Debbeigg, when going to the rear.

Answer.—The message was for the Adjutant to send up all the men in rear, and I told the message to Col. Debbeigg,* I did not see Col. Mullins again until I saw him in the Wood after the action was over.

Question.—Did I tell you to keep your eye on me especially for one particular purpose, if so, state what purpose that was?

Answer.—You told me to stick close to you, to assist you over the drains.[68]

QUESTION BY THE COURT.

How near was you to the enemy's Ditch, when you was sent on the Message by Lieut. Col. Mullins.

Answer.—Within 10 or 12 paces, when I left him he was wounded in the Shoulder, at the same time I got two Slugs at the back of my hand, and my firelock was broken.

Question.—At the time you were sent by Col. Mullins, did you see any other Officer?

Answer.—I only saw Lieut. Knight about 12 or 14 paces from Col. Mullins, I did not see any other Officer near at that time.

Question.—Were you with Lieut. Col. Mullins in front of the 44th Regiment when it entered the field, in front of the advanced Battery?

Answer.—I was.

Question.—In what order was the Regiment moving at the time you got the order to halt, front, and left face, after passing?

Answer.—The men were greatly open, by carrying the Ladders, some were in Sections, some 4 deep, there was confusion, we were right in front, when passing the Gap, the order halt, front, left face, brought the left in front.

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*It was extraordinary that Col. Debbeigg should have detained this Sergeant after informing him of the duty he was sent on.

[68]Original Pagination.

Question.—Was Col. Debbeigg wounded at the time you met him; when he took you out of the Field?

Answer.—He was bleeding at the nose.

CORPORAL COPPIN.

Question.—How close did you see me in action with the enemy on the morning of the 8th January last?

Answer.—Within a yard or two of the enemy's Ditch.

Question,—Did I encourage the men by words and example to the attack?

Answer.—You did.

WILLIAM JEFFRY

Question. (the same as Corporal Coppin).

Answer.—About 30 paces from the ditch, when I saw you.

2nd Question, the same as Corporal Coppin.

Answer.—Yes Sir, you cheered them and waved your Sword.

THOMAS DUDLEY.

Question.—Did you not retire from the field with me on the morning of the 8th January, and how near were we to the ditch, when we retired, and were we not the last of the 44th out of the field?

Answer.—I did, we were within ten yards of the ditch when we retired, we were the last of the 44th in the field.[69]

HENRY DWYER.

Question.—Did you not retire from the field with me on the morning of the 8th of January last, how close were we to the enemy's ditch, and were not we the last of the 44th that quitted the field?

Answer.—I did, we were, as near as I can think, from 15 to 16 yards of the Ditch, when we began to retire, we were the last of the 44th in the Field.

There were other witnesses ready to give the same testimony as the above witnesses, but not called on.[70]

REJOINDER.

Mr. President, and Gentlemen of this Hon. Court:

THE first fact in this case, is the order of Gen. Gibbs, directing me, as commanding Officer of the 44th Regiment, on the

[69]Original Pagination.
[70]Original Pagination.

night of the 7th of January, to ascertain where the Facines and Ladders were.

The first allegation in these charges, is the disobedience, or neglect of that order by me.

Conceiving it a military principle, that the head is inseparable from the body of the Regt. and that New Orleans was not a proper place for departing from that indispensable principle; I declined to absent myself from my post, without any express command to that effect.

It is proved that I deputed the duty to Lieut. Col. Johnston, with peculiar emphasis, and caution, as the duty was important, I selected a person of my own rank to discharge it, and as it was simple and obvious, I was unsuspicious that he could either neglect or misreport it.

It is proved that General Gibbs, who must be the best judge how far his own orders were disobeyed or neglected, knew this deputation, and did not disapprove of it; it is therefore submitted, that this Honourable Court will deem it justifiable, or at worst, excusable.[71]

In that case, the accusation changes ground to the second stage of this transaction. The allegation will then be, that I did not act on the report of Col. Johnston, and the second question for the Court will be, what was the report?—Was it the Battery or the Redoubt?

It is asserted by me, that he reported the Battery, and I submit to the Court that this point is established by four features of evidence. First, from the testimony of Lieut. Col. Johnston, who does not deny it. Secondly, from the evidence of Lieut. Col. Debbeigg, who asserts, that he heard Lieut. Col. Johnston use the word Battery, in reply to a question from me, respecting the place where the Facines, &c. were. Thirdly, from the conduct of both at the Redoubt, remaining there with me for 10 minutes during the halt, and never apprehending themselves that the Facines were in that place. Fourthly, from the conduct of the two Lieutenant-Colonels, Major M'Aulay and myself, at the advance Battery.

It is proved by Lieut. Phelan, that some time after our arrival at the Battery, he heard high words between Lieut. Col. Johnston and me, which perhaps this Court will attribute to my accusing him of having misled me; and it is also proved by Major

[71]Original Pagination.

M'Aulay, that on our first arrival at the Battery, and on his expressing some anxiety to Col. Johnston, lest I had passed the Facines at the Redoubt, Lieut. Col. Johnston instantly replied to him, "Make yourself perfectly easy on that subject; an engineer Offi[72]cer will attend here to shew them." When the Lieut. Col. advised the Major to make his mind easy on the subject, of course his own mind must have been at ease; is it therefore wonderful, that he should have made my mind as much at ease as his own.

It is suggested that Lieut. Col. Johnston had himself no opinion on the subject, that although he informed me about the fact, he did not inform himself, but this suggestion is not more friendly to Lieut. Col. Johnston than to me, it is presuming strongly against his sense of his duty, because in the event of a fatality it might be of the last importance, that he should be informed of the place where the Facines were, as the command might devolve on him.

It would be uncongruous in a man of his rank to say, I was directed to ascertain and report a particular fact, I ascertained, and reported, and did not know what I reported, but Lieut. Col. Johnston did not commit such an inconsistency, nor neglect to imform himself upon the subject, because it appears by his words to Major M'Aulay, that he had such a distinct persuasion on his mind, as to enable him to dissipate all the anxieties of others, and he knew that an engineer Officer would attend there to shew them, that is, would attend at the Battery to shew them.

These words then prove that Lieut. Col. Johnston had a persuasion on his mind, of the place, and that that place was the Battery.

It is proved to you from his own mouth, that at the Battery he had a conviction that I was[73] right, does not that circumstance explain how I was led wrong.

This conversation with the Major at the Battery, and my subsequent altercation with Lieut. Col. Johnston, his previous conduct at the Redoubt, and the conduct of Lieut. Col. Debbeigg at the same place, the silence of Lieut. Col. Johnston, and the assertion of Lieut. Col. Debbeigg, that Battery was the word in the report, are four strong circumstances, combining to convince that the Battery was the place reported to me, and if the Court be of that opinion, the orders were neither disobeyed nor neglected up to the time of our arrival at the Battery.

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[72]Original Pagination.
[73]Original Pagination.

Some time was certainly lost there, because it was some time before a confidence on my mind similar to that on the mind of Lieut. Col. Johnston, gave way to apprehension.

When I assertained that I had been really misled, I sent back Lieut. Col. Debbeigg with the Regiment for them, he returned with all possible speed, and reported to me that all were present with the Facines and Ladders, I forthwith led them through the Battery, and we were the first in the field, because it is proved by Lieut. Phelan that we were next the covering party, as to formation, great regularity was perhaps impracticable, in a party incumbered with Ladders and Facines, and being obliged to move in the dark through a Gap, admitting but four men in front, but the formation circumstances would admit was entirely broken, by the order from General Gibbs, the Regt. moving to the right, was suddenly faced to the[74] left about, the party in front not hearing the order were separated into two portions, each moved to the enemy's ditch in different directions, but contiguous to each other.

But it has been justly and relevantly observed by the President of this Honorable Court, that notwithstanding the derangement incident to a fatigue party debouching in the dark through a narrow Gap, the distinctness of these commands, Halt front, left face, proves that in the opinion of him who issued them, that that body of men, must have preserved a certain degree of order, and perhaps all possible order.

A presumption that every thing in the conduct of an Officer is right, until it appears to be wrong, has long been the unbroken custom, and may be called the common law of the British army, my inferiors in rank reverse the rule, and wound my character with its inverted points, for they presume that my conduct has been wrong, because it may not have appeared to them to be otherwise, they did not see me, and therefore believe I was not there, there are some who will believe nothing, but what they see, and it is possible to see nothing but what they like.

All the evidence for the prosecution, on the second charge, has been of a negative description, with the exception of two Gentlemen, each of whom saw me once, the first going into the action, when its vehemence began, and the second towards its termination, in the front of the Battle, such was the case made by the prosecution, and I might confidently have rested my defence to

[74]Original Pagination.

the second[75] charge on that case, I have, however, filled up the business between these two limits, I have produced many of the survivors of the party that remained with me.

They have proved my presence and conduct, they prove the different messages which I dispatched to the Adjutant, desiring him to bring up the men, some of them are corroborated by the Adjutant himself, the orderly serjeant that missed him, is fully accounted for, by his being taken off the field by Lieut. Col. Debbeigg, having previously communicated to him, the object of his mission. This may shew the court the assistance which I had in avoiding, remedying, or supporting misfortune, another was commissioned to go and tell any Officer he could find to bring up the men to our assistance.

In reply to the negative evidence of those who did not see me, I offer the positive testimony of all the Witnesses adduced on either side who did see me, that is, the positive evidence of two Officers, three Serjeants, three Corporals, and five privates, being thirteen eye witnesses of unimpeached characters, the first of whom saw me enter the Battle, and each of the remaining twelve engaged in it, I do not rest my defence on Privates, Non-commissioned Officers or Officers, but on all.

The prosecution have produced to this charge, two Officers for me, and if I have not produced Officers to this point, it is because the fact as it is proved did not admit them, one portion of the Regiment belonged to the covering party, and one portion of the Facine party was separated by the orders from General Gibbs, therefore some of my[76] Officers were of necessity removed from me and all the Officers of the Facine Party, except four, were placed Hors de Combat. These circumstances will account for the fewness of the Officers observable by the men, and available by me.

But there is no room for deducing a distinction unfavourable to me, from the distinction of rank between the witnesses on either side, because so far my case is concerned, there is no repugnancy in their testimony, these thirteen witnesses are all consistent, and concurrent, no cause, not strong in justice, would put its fate to the risque of such a crowd of witnesses, for it is unnecessary to inform you, although it may not be impertinent to remark, that a number of witnesses, by increasing the points

[75]Original Pagination.
[76]Original Pagination.

of evidence, multiply the reconcilements and coincidence that must be established, and uniformly must overturn every system of defence not supported by fact, and ballanced on truth, but if a system of defence be "armed in honesty," the number of witnesses, however great, or however protracted, their cross examination will but add breadth to its base, and strength to its structure, and such I hope, was the effect produced by the cross examination of those witnesses.

On the evidence of those thirteen unimpeached witnesses of all ranks, who saw me, in contradiction to the ungenerous surmises of a few, who did not see me at all, I now call upon this high minded Court, the members of which, with my entire concurrence, now sit as Judges on my conduct, and arbiters of my character, with the feeling that becomes my situation, but in the firmness that[77] befits my innocence, I call upon you in your justice, by your decision, to expunge this blot upon the British Army, this stigma on the Irish name, this infamous slander on an injured man.

They would brand me as a coward, had some of them been present, when at Baltimore, the 44th saw me at their head, and I the enemy's whole line in flight, they would have enquired before they had accused, and they would not have accused at all, but I confidently anticipate, that your decision will be to it a recorded refutation, and assuming my innocence on the second charge, I make that innocence my answer to all imputation of design or ill motive, which could be attempted to be conjoined with the misfortune alledged in the first charge, for it is impossible that any man, not an idiot, intending to conduct himself in an attack, as it is proved that I did, could ever contrive, willfully to compass a defeat at the expence of the lives of a large part of the army, when in all probability, the lives of his friends and himself, must be the first victims to its contrivance.

Human tribunals cannot reach the heart, and must therefore infer the motive from the conduct, in this case, the wrong act alledged in the first charge could only be swelled into a crime by a bad motive inferred from the acts alledged in the second charge. But as the second charge has been not only unsupported, but I trust, completely overturned; the ground is removed, from which any bad motive could be deduced. The acquittal on the second charge defends the heart upon both, and by purifying

[77]Original Pagination.

the first from all criminality, compels the allegation to sink to error.[78]

It only remains, that that error may not be aggravated, by being overlaid with imputed consequences, not properly belonging to it. I wish not to attach blame to any one, although I am made chargeable with all the disaster; but as the young Gentlemen of the Staff, produced on this trial, have confined the repulse to a single cause, I hope I may be allowed to shew, not what I or others regard as the causes of the repulse, but that according to opinions as competent as theirs, more fatalities than one were concerned in its production.

The greatest commanders have often admitted their inability to explain, or discern the specific causes of a great military misfortune. The great Marshal Schombergh derides the folly of affecting precision in such descriptions, and it is a stronger instance of self assumption than sagacity, to be so confident in developing the single cause, or striking exactly the hinge, on which the disaster is presumed to turn.

These young Gentlemen have no difficulty in saying that circumstances about the Facines were the sole and distinct cause of our disaster at New Orleans. In reply I have only to say that General Lambert has reported thus, to the Government:

EXTRACT.

"The Mississippi is here about 800 yards across, and they, (the Americans) had on the right bank a heavy battery, of 12 Guns, which enfladed the whole front of the position in the left.

An advanced Battery in our front, was thrown up during the night, consisting of 6 18-pounders, about 800 yards from the Ditch.[79]

Unlooked for difficulties increased by the falling of the river, occasioned considerable delay in the entrance of the armed Boats, by which 4 or 5 hours were lost, and it was not until five in the morning that the division could get over.

Thus the ensemble of the general movement was lost in a point of the last importance to the attack on the left bank.

A continued and most galling fire was opened from every part of the line, and from the Battery on the right bank."

[78]Original Pagination.
[79]Original Pagination.

It is a strong corroboration of this opinion, that the American General, in his dispatch, agrees with the British General in ascribing the greatest importance to the taking or losing of this Battery; and yet the young Staff Officers, in their endeavours, in their opinions, to load me exclusively with this disaster, have not only said positively that the circumstances connected with the Facines and Ladders was the sole cause, but have added positively, that the Battery had no connection whatsoever with the repulse.

THOMAS MULLINS,
Brevet Lieut. Col. 44th Regt.[80]

UPON THE FOREGOING CHARGES, THE COURT CAME TO THE FOLLOWING DECISIONS:

"The Court taking into their serious consideration all the evidence adduced and laid before them, and the matters urged, as well on the part of the Prosecutor, as by the Prisoner in his Defence."

"On the first Article of Charge, Do find the Prisoner, the Hon. Thomas Mullins, Captain of His Majesty's 44th, or East Essex Regiment of Foot, and Lieutenant Colonel in the Army, Guilty of the First Article of Charge, as above preferred against him."

"On the second article of Charge, The Court do find the Prisoner, Lieut Colonel Mullins, Guilty of such part of the Second Charge, as relates to his not placing the Ladders and Facines in the Ditch as ordered, and that therefore the Service allotted to the 44th Regiment was not duly performed, which materially led to the failure of the Attack; but the Court do find, that the Prisoner did not evince any want of personal courage, and that he is Not Guilty of scandalous and infamous misbehaviour before the Enemy, on the 8th January, 1815:—The Court do therefore honorably Acquit him of such scandalous and infamous misbehaviour."

"On the Third Article of Charge, The Court do find, that the Prisoner, Lieutenant-Colonel Mullins, did use the expressions set forth in the Third Charge, or words to that effect;—but the[81] Court do find that those words were not used in the sense, with the view or with the evil intention, or consequences imputed in

[80]Original Pagination.
[81]Original Pagination.

the said Charge:—The Court do therefore, most fully and honorably Acquit the Prisoner, Lieutenant Colonel Mullins, of the said Third Charge, and all criminality thereon."

"In consequence of the above Finding, the Court do adjudge and sentence that the Prisoner Lieutenant-Colonel Mullins, shall be Cashiered."[82]

Names of Officers in Action, with that part of the 44th Regiment, employed with the Ladders and Facines, on the 8th of January, 1815.

Brevet Lt. Col. Mullins, wounded slightly,
Lieut. Col. Debbeigg, do. do.
Lieut. Col. Johnston,
Major M'Aulay,
Lieut. Wm. Maclean, severely wounded,
——— Wm. Knight, taken prisoner,
——— Robert Smith, severely wounded,
——— Henry Brush, severely wounded,
——— Richard Phelan, severely wounded,
——— James White, severely wounded (since dead)
——— M. M'Closkey, killed,
——— Hayden, severely wounded,
——— John Donaldson, wounded slightly,
——— H. Mence,
Adjutant Barry,
Lieut. Wm. Wood, in the rear, wounded.

W. ESPY, Printer, 59, Dame-Street.[83]

[82]Original Pagination.
[83]Original Pagination.

EDITOR'S CHAIR

By HENRY P. DART

A BATTLE OF NEW ORLEANS NUMBER

With the exception of the regular departments, we have devoted this number of the Quarterly entirely to documents pertaining to the Battle of New Orleans, January 8, 1815. Several interesting features are developed in these papers all more or less of minor concern but all full of the atmosphere of the vivid hours that preceded the battle and of the events that crowded and filled the course of the attack and defense. This statement applies also in a measure to the vigorous language of Wellington, written in Brussels in June after the battle, that is embodied in his letter here published as we are advised for the first time. Sir Edward Packenham had served long in the official family of Wellington in many campaigns. While he laments his death, he cannot refrain from pouring out his criticism on the character of the expedition and his rancor against Admiral Cochran. Like all English soldiers of that period, he too could not believe that the defeat was due to superiority on the field.

But these various papers yield in interest to the scarce pamphlet covering the Court-Martial of Brevet Lieutenant Colonel Mullins, Captain of the British 44th Regiment of Foot. This officer on the eve of the battle was charged by Major General Gibbs with the duty to see that his regiment (the 44th) "possessed themselves of Fascines and Ladders" to be used to fill up the ditch to enable the army to mount the parapet protecting the American forces. The 44th was here placed in the honorable position of a forlorn hope. It was the purpose of the army to storm the position and the 44th was entrusted with the distinction of leading the way. Mullins failed to perform the duty and was sent back by Packenham himself to retrieve the forgotten fascines and ladders. In the meantime, the element of surprise was lost and the battle was on.

When the attack failed, the British Army laid the responsibility for it on Col. Mullins. The bitterness of the surviving officers may be summed up in the language of J. R. Gleig, who was with that army in the battle and subsequently wrote, "The campaigns of the British Army at Washington and New Orleans

in the Years 1814-1815." This book published in 1921 says (p. 380):

> "the behaviour of Colonel Mullins was however disgraceful in the highest degree. When orders were issued for his regiment to bear the fascines and ladders, instead of feeling a pride at the honour thus conferred upon them, that officer fell into dispair. He stated in the hearing of the private soldiers, that his corps was devoted to destruction; and conducted himself in every respect, like a condemned criminal on the night previous to his execution. When the troops got under arms, instead of bringing his battalion to the redoubt, where he had been instructed to find the ladders he marched directly past it; and led them into the field without a single ladder or fascine."

This author further says that but for this failure of Mullins, Sir Edward Packenham would probably not have been killed, because in the absence of Mullins, Packenham had put himself at the head of the 44th to lead them to the charge and received his death wounds at that moment. In short, no officer of the attacking army believed before the battle that Jackson and his men would stand up against a charge before daybreak of a picked regiment, properly equipped to open a way for the whole army. They had no faith in the bravery of the American soldiers, notwithstanding this had been demonstrated at least twice before in this same campaign, in night and day attacks. One would think that after the steadfast courage exhibited on our side on the 8th the British would have been content to admit the tactical and physical skill of the opponent, but the carnage in their ranks and the absolute defeat they had suffered, blinded them to the more generous impulses of their nature. Colonel Mullins was doubtless recreant to his duty but he was not the whole cause of the British defeat at New Orleans. He received however the full brunt of his compatriots' anger. He was immediately put under arrest and charges were preferred against him upon which he was brought to trial before a court-martial in Dublin, Ireland, on the return of the invaders to their native land and in due course was convicted and cashiered.

RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA

XXIX

February-May, 1737.

SUPPLEMENTAL INDEX No. 6

(Continued from October, 1925.)

(See Editorial Note on this Supplemental Index, Louisiana Historical Quarterly, Page 676, October, 1924.)

By HELOISE H. CRUZAT

Feb'y 16, 1737 (7037) 2 pp. **Petition to Superior Council** by Raymond Amyault, Ecuyer, Sieur D'Ausseville, Attorney of Vacant Estates, to sell tools of blacksmith shop of late Joseph Moreau, deceased in August, 1736, as Joseph Moreau, Jr., has failed to return a tool which he carried away and that it is useless to incur expense of advertisement for so small an object, which may hereafter be returned. He prays that Ozenne, son-in-law of deceased Joseph Moreau, as executor of his estate, be cited before the Council to be ordered to pay sum of 100 Livres to act thereafter as he may judge proper towards Mr. Moreau, his brother-in-law. Signed: D'Ausseville.

(7938) Citation issued to Joseph Moreau, Jr., by Judge Salmon.

Notice of sale of tools of blacksmith shop of late Joseph Moreau to take place February 19. Signed: Hugault.

Document in bad condition.

February 18. (7939) fo 5. (2000) 5 pp. **Marriage Contract** of Sr. Jonathas Darby, English gentleman, son of deceased Sr. Jonathas Darby, English gentleman, Doctor of the University of Oxford, and of Dame Anne Segre, a native of Lininsong, England, now residing in New Orleans, Province of Louisiana, on one side, and Demoiselle Marie Corbin, minor daughter of Sieur Jean Corbin, called Bachemin and of Dame Judith Le Hardy, a native of Saint Malo, assisted by Pierre Dreux, her tutor and brother-in-law. Signed: Raguet, Darby, Dreux, Marie Corbin, Corbin, Balcour, Jousset Laloir, De Vauparin, anne dreux, janne raguet, Malo, Hugault, Henry, Notary.

Jousset and Laloir, though there is a paraph between, seem to be one person, the script being identical.

(7935) fo 5. (1999) **Sale by Auction** of contents of blacksmith shop of deceased Joseph Moreau. Returns amounted to 10 livres, 10 sols, deducted from 70 livres, remainder, 59 livres, in possession of Mr. D'auseville. Signed: D'auseville, f. Gallot, Boyau, le breton, Ozenne, Hugault, Sheriff; Henry, Clerk.

Feb'y 21, 1737 (7947) fo 5. (2002) **Sale** of two negro girls, named Genevieve and Nanette, by Sieur Francois Caüe, acting for Antoine Boucharen, to Sr. Jacques Larche; this sale made in execution of Mr. Salmon's order on date of the 20th of this present month, brought 625 livres, which the purchaser paid 25 livres cash and promised to pay the remainder in corn at 4 livres, 10 sols the barrel. Signed: Larche, Hugault, Caüe, Piqurey, Henry, Notary.

February 22. (7950) fo 5. (2002) 8½ pp. **Marriage Contract** of Jean Stephen, son of Yves Stephen and of René Abricon, a native of "the Parish of Casnot, Bishopric of Cornwall," on one side, and Dame Anne Francoise Rolland, widow of deceased Sr. Nicolas Sarrazin, residing in this Colony. Signed: jean Stefant, anFran roLand, Dumas, j Larchevesque, Marque de + Germain, Fr Aubert, Hugault, Piqurey, Henry, Notary.

(7954) Inventory of goods of Dame Anne Roland, widow of Nicolas Sarrazin. Signed: jean Stefant, anfrancoise, Dumas, J Larche, Hugault, Sheriff; mark of Germain, Henry, Notary.

February 28. (7959) (2003) fo 5. 1 p. **Lease of a House** to Isaac Poisat by Helene, Widow Braquigny, now married to Jean Revel. This house is situated in this city, on the corner opposite that of Marin, innkeeper, at 10 livres per month, lease beginning on the first day of March of this year, ending on the last day of February, 1738, which rent shall be paid to lessor on the third of each month, which she expects to keep in same condition in which she rented it. Signed: Piqurey, poisat, Hugault, Henry, Notary. Said Helene,

Widow Braquigny, wife of Jean Revel, declared that she did not know how to write nor sign. Ragged edges, but document otherwise in good condition.

March 2, 1737
(7960)
(2004)
fo 5.
1 p.

Contract between Mr. Prat, physician of the King, and Pierre Almanzor, a free negro, who has a venereal disease which necessitates his being treated with extreme remedies ("les grand remedes") and having no means to be treated he has obligated himself to serve Dr. Prat as a cook or in any other capacity, except wielding an axe or working the ground for the space of five years, which will begin from the time of his perfect cure, on condition that Doctor Prat will treat him, provide medicines, necessary utensils and nourishment prescribed and support him until his cure. Passed before notary and required witnesses, Almanzor declaring that he could not write nor sign. Signed: Prat, Couturier, Cantrelle, Henry, Notary.

Mar. 18.
(8169)
fo 5.
(2011)
1 2/3 pp.

Retrocession by Sr. Larchevesque and his wife, Marianne Bertin, widow of Noel Busson, to Sieur Antoine Aufrere, of two negroes and a negress (property of the Company of the Indies) and a lot in this city. Sr. Aufrere had bought the house from Dame Riffaut and turned it over to the said Widow Busson in exchange for the three slaves. The negroes being due to the Company, Sr. Aufrere has returned the slaves to Mr. Larche, with consent of his wife and Sr. Larche gives up the house and all titles to it, both sales being annulled. Signed: Larche, marian busin fame larche, Piqurey, Aufrere, Hugault, Henry, Notary.

Mar. 18.
(8171)
fo 5.
(2012)
3½ pp.

Contract before Notary Royal between Jacques Esnoul. Mr. de Salmon, Commissioner of the Marine and Ordonnateur for the King in this Province, with consent of Mr. Bizoton, Comptroller in said Province, to furnish the King's store in New Orleans 1000 oars from 12½ feet in length to 9 feet, as proportions of the boats require, said oars to be furnished immediately, and paid by the Treasurer of the Marine on delivery at 25 sols apiece, with deduction of

the 4 deniers for the benefit of the Invalides of the Marine, furnishing mortgage security on his goods for said delivery at the office of the Intendency. Signed: Jacques Esnoul, Salmon, Bizoton, DeLaPlace, f. Gallot, Henry, Notary.

March 18. (8173) fo 5. 1½ pp.

Contract between Mr. de Salmon, Commissioner of the Marine and Ordonnateur for the King in this Province, and Sieur Jean Marest Dupuy, to furnish the King's store in New Orleans, with 200 ship-boards of cypress, to-wit: 150 measuring 20 feet in length, 25 of 24 feet, 25 of 15 feet, from 10 to 12 inches wide by "five quarters" (meaning 1¼ in.) in thickness, to be paid by the Treasurer of the Marine at the rate of 5 sols the running foot, immediately after delivery, with usual deduction of 4 deniers per livre for the Invalides of the Marine. For security of this contract Dupuy has given a mortgage on all his present goods and on those that may come to him hereafter. Signed: Maret Dupuy, Salmon, Bizoton, DeLaPlace, f. Gallot, Henry, Notary.

March 19. (8179) fo 5. (2014) 1 p.

Receipt to Jacques Sautier for payment of 100 livres on a sum of 200 livres for a half lot sold to him by Guillaume Perrier, who had acquired it from said Livet, which makes Sautier possessor of a half lot situated on St. Peter Street where he lodges. Signed: Livet, Hugault, Piqurey, Henry, Notary.

March 23. (8272) 3 pp.

Petition to Superior Council by Antoine Hanoteau, acting for his wife, Marie Augustin Haussy, both of Pointe Coupee, alleging that Marie Michel Lepage, wife of Pierre Haussy, having died, they both offered Haussy a home with them and his board without expense, with privilege of working his slaves for his own account and to pay his creditors, which he refused. They pray that inventory be made of movables, immovables, negroes, furniture and effects which may have belonged to his deceased wife, and to order that in his presence and in that of three residents named by the Commandant of this Post, inventory and appraisement be made of all

that is in possession of said Haussy by purchase or otherwise, as is customary, so that he may not sell or alienate for the protection of the rights of the creditors; or if preferable, order that division be made half and half of all that is found between Haussy and his daughter, wife of petitioner, who offers to be responsible for half of the debts due to the Company, and to private individuals, which were contracted during their community, as his wife is sole heiress of the deceased Dame Haussy, promising to pay her half of the debts in the course of the present year. Signed: Hanoteau.

(8273) Order to proceed to inventory in the presence of the interested parties and of two individuals chosen by them, appointing Sr. Hugault to make said inventory on this day, March 23, 1737. Signed: Salmon.

(8273) April 8, 1737. Summons served on Pierre Hanotau as husband of Marie Augustine Haussy, both residents of Pointe Coupee, to name without delay a resident, declaring that he has named Sr. Allain, a resident of Pointe Coupee, to be present at appraisement of goods of deceased Dame Haussy, on order of Mr. de Salmon, and also at division of same if it be so decided; said Haussy declared that he did not object to said inventory but that he wishes the Superior Council to act on an article of his marriage contract which gives him the right to enjoy during his lifetime all that he has in his possession from his deceased wife, for reasons which he will present in time and place, protesting against all that may be protested concerning the present opposition. Signed: Allain, Gueho, P haussy, Hugault.

(8281) Which answer Hugault considered as a refusal and notwithstanding opposition, Haussy is summoned to appear before Superior Council, during its sitting, to answer as required, and left him copy of the petition and act. Signed: Hugault.

(8274) April 16, 1737. Petition to Superior Council by Pierre Joachain D'Haussy stating that he is in receipt of a petition by Antoine Hanoteau to proceed to inventory and division of

his movables; that he does not refuse to obey orders from his superiors, that two residents could have taken this inventory as there is very little; that said Hanoteau presents a collated copy of a contract which he begs the Council to examine and that he will accept their decision and do what is ordered. Said Hanoteau has proposed to Pierre Haussy to reside with him for the rest of his life; he answers that he is still young enough to be a planter and is in better condition than Hanoteau, who has not the means to support him to the end of his life; moreover he has six boarders and that he (Haussy) will be more satisfied to remain in his own home. Haussy affirms that he has paid the Company of the Indies up to date, that he does not think that they will take back his negroes and soon they will have full satisfaction as his debt is very small. There is nothing else to add to the foregoing except that said Hanoteau should pay costs for not having notified Haussy before he came down. Signed: P haussy.

(8281) May 4, 1737. Conclusions of Procureur General Fleuriau that after consideration of the petition, protest and contract of marriage of Joachim Haussy and Marie Michelle Le Page, on date of June 2, 1710, he requests in the King's name that costs of inventory made after decease of said Dame Haussy, née Le Page, be on Hanoteau, as the husband is free to have inventory made to settle community or not to have it made as it suits him, in which case it is supposed to continue and that by the contract of marriage the survivor is to enjoy all the movables and furniture during his life time; that the goods of said Haussy are pledged to the Company of the Indies to whom he is indebted and that consequently Hanoteau's rights have not fallen due and that he has had inventory made for protection of same. Signed: fleuriau.

(8276) 3 pp. Collated copy of Marriage Contract of Pierre Joachain D'Haussy and of Marie Michelle Le Page, passed on June 2, 1710, before Vincent de La Roche, scrivener and notary royal hereditary, residing at Mons. This true copy of the original drawn up on

request of Sr. Pierre Haussy, Pointe Coupée, to serve as need may be, on April 8, 1737. Signed: Hugault, Sheriff; Gueho.

March 14. (9621) fo 9. (2306) 1 p.

Procuration by Sr. Jean Francois Gautreau, Guardian of the King's store at New Orleans, to . . . blank . . . to receive from the General Treasurers of the Marine annually the sum of 1200 livres, due to him as salary for said charge, beginning on the first day of June of the present year, and through the following years, to claim receipt, discharge and ratify; said procuration to continue in force until its revocation. Signed: Gautreau, f. Gallot, Roumier, Henry, Notary.

March 28. (8189) fo 6. (2019) 1 p.

Declaration by Sr. Nicolas Vatable, Captain of the boat La Marguerite, that he was shipwrecked on Chandeleur Islands, on the sixth of last February, which declaration was first made in Registry of Mobile, and that he came to New Orleans only to embark for France on the first boat leaving, as he has no business here to detain him, his declaration in the Mobile Registry being paraphed ne varietur, as well as declaration and attestation of his crew before witnesses, of all of which act was passed on request of said Vatable. Signed: N. Vatable, Henry, Clerk.

April 1. (8190) (2020) 1 p.

Acknowledgment before Notary by Sr. Jacques De Coustilhas, Captain of Marine troops in this Colony, of his indebtedness to Sr. Gerard Pery, to the sum of 3078 livres, 19 sols, which he promises and obligates himself to pay "in current specie of this Colony with interest at 2½% per month as explained in act passed payable at stipulated term," Sr. Coustilhas furnishing mortgage security on all his movables and immovables, present and that may come hereafter. Signed: Coustilhas, Piqurey, Hugault, Henry, Notary.

(8192) 2 pp.

February 7, 1738. Declaration by Sr. Gerard Pery that he has funds that he cannot send to France as he has no letters of exchange on the General Treasurers of the Marine or merchandise suitable for returns; that he has a sum of 3078 livres, 17 sols, of which 1425 livres, 17 sols, are for Mr. La Brousse

to be sent to Sr. Ferchaud, merchant of Bordeaux; 151 livres, 13 sols, which Sr. Lartigue, Surgeon of the ship the Comte de Maurepas has also intrusted to him to remit to Sr. Ferchaud; 254 livres, 16 sols, in Sr. Pery's hands belonging to Sr. Pierre Roumier; 460 livres, from funds owned by Sr. Dabaure; 348 livres for Sr. Paquer, pilot of the Comte de Maurepas, totaling 3078 livres, 19 sols, for which he has investment in this Colony at 2½%. He promises and obligates himself by these presents to remit said sum to Mr. de Coustilhas, proprietor of the brigantine the St. Jean Baptiste, in the first days of April, said funds to be used for suitable purchases for the said brigantine, Sr. Coustilhas obligating himself to pay 2½% per month from the day he receives said sum until reimbursement of principal and interest thereon, which may be in the course of next September, Sr. Coustilhas signing these presents on aforesaid conditions, agreeing, obligating, renouncing, etc. Signed: G. Pery, Coustilhas, Piqurey, Hugault, Henry, Notary. (Document soiled, charred and perforated.)

(8191)
1 p.

February 18, 1738. Receipt by Sr. Gerard Pery, merchant of New Orleans, to Sr. de Coustilhas, for the sum of 3078 livres, 19 sols, and that of 752 livres, 10 sols, for interest on 3848 livres, 14 sols, with full discharge for payment and obligation. Signed: Pery, f. Gallot, Le Vasseur, Henry, Notary. Document stained, pale and perforated, in some parts hardly legible.

April 3.
(8584)
fo 6.
(2112)
1p.

Receipt to Sr. D'Auseville by Jacques Ozenne, son-in-law of deceased Joseph Moreau, for 411 livres, 10 sols, for loan to said Moreau and his wife and for nourishment furnished. Signed: Ozenne, poisat, Piqurey, Hugault, Henry, Notary.

April 8.
(8194)
(2021)
3 pp.

Report before Jerome Roussilliat, notary, residing at Fort Chartres, in Illinois, by Louis Turpin and Joseph Turpin, brothers, that they and their brothers in Canada are heirs to estate of deceased Jean Baptiste Turpin, their nephew, and that they have amicably settled the succession by division into two

equal parts before Sieurs Jean Paré, Ignace Hebert, Jean Baptiste Becquet, Charles Henaux and Francois Becquet. Inventory follows and collated copy is certified by Jerome, Notary and Clerk.

(822) September 25, 1737. Act passed before notary at Fort Chartres, the following persons being present: Louis and Joseph Turpin, brothers, acting in their own name and in that of the heirs on the paternal side in the settlement of succession of Jean Baptiste Turpin, their nephew, who died at Kaskaskias, and Marie Farfart, wife of Louis Metivé, for her mother, Marie Couque, now in Detroit, a post of Canada, grandmother of said deceased. Since inventory was made, a heifer and bull which were thought to be lost were found, and they have agreed between themselves that the heifer will go to Louis and Joseph Turpin, Mrs. Metivé accepting the bull, in her mother's name, risks to be on both parties. A true copy of this act furnished and certified by Jerome, Notary and Clerk, September 25, 1737.

April 9. (8201) (2022) 3 pp. **Procuration** granted before Notaries of the King of the Court of Nantes, with submission and prorogation of jurisdiction, by Dame Francoise Michel, widow in community, of "noble homme" Louis Jouaneaulx, former merchant at Nantes, said widow residing in house of the Ladies of St. Mary Magdelen, in that city, Parish of St. Leonard, who has constituted as her general and special attorney Sieur Pierre Oger de Vaugre of Saint Malo, to whom she gives full power to receive from Sr. Jean Baptiste Faucon and from Charlotte dejalou, his wife, or from their heirs, or assigns, the sum of 30,331 livres, 10 sols, principal of the four notes signed by said Sieur and Dame Faucon to said Sr. Jouaneaulx, on date of December 3, 1714, against which judgment was rendered at the consulate of Saint Malo on December 19, 1715, and on July 6, 1716, for interest thereon and costs to this day, and in default of full payment to prosecute them, to declare said judgments executory in the name of and for benefit of said constituent, to attach sums in hands of

their debtors, and by seizure and all legal means to obtain execution and payment of said Sr. and Dame Faucon or from their heirs and assigns, to empower other attorney, in fine to act as said Dame Jouaneaulx would if she were present, until full payment. Signed: f. Michel veuve Jouaneaulx.

Lelou, notary, filed the said minute in Registry at Nantes. (Received 12 sols.) Signed: Guilloteau, Notary Royal. Certified by Lieutaud.

April 9. (8265) 1 p. **Defense of Andre Joly,** resident of Pointe Coupée, vs. Sieur Alexandre Dubreuil, called Lafacine, stating that Mr. Lafacine is suing him for the negroes he acquired from Sr. Michel Baux, that said Baux had at heart to settle with his creditors and particularly with Mr. Trenonay. Said Joly not only has the two negroes mentioned, but is in possession of another on which he has given bond for what may be due to Sr. Trenonay. He only prays that he be allowed to pay after the tobacco crop of the present year, protesting against all that may be protested. Signed: andre joly.

(8266) Documents attached to preceding defense:

March 26, 1737. Petition to Superior Council by Sr. Alexandre Dubreuil for citation of Sr. Michel Baux, his former associate, that he may be ordered to report and acquit in full for negroes for whose payment he is responsible, but for which he and petitioner are solidarily obligated, otherwise to allow seizure of all that may belong to Sr. Michel Baux, even the tobacco crop of Sr. Joly, in payment of negroes he holds from said Baux, which he should not have without permission of the Judge, consent of the creditors, privileged or otherwise interested. He prays that said Joly be summoned with Sr. Michel Baux and that costs be on them. Signed: Hugault for La facine. Summons to aforementioned parties signed by Salmon, on date of March 26, 1737.

(8267) April 8, 1737. Notices served by Sheriff Hugault on Sieurs Lafacine, resident of Pointe Coupée, Michel Baux and Andre Joly, residents of the same place, to appear before the

Superior Council on the first Saturday of next May. Signed: Hugault.

April 13. (8240) 2 pp. **Petition to Superior Council** by Chevalier de Querlorec, Lieutenant of the King's ships, now in this port, stating that he holds procuration of Sr. de Longpré passed before the notary of St. Malo on date of October 3, 1736, duly legalized with an acknowledgment of Dame Perine Lemarié of two notes signed by Sr. Henry Le Blanc, payable to order for the sum of 10,463 livres, on date of March 12, 1715, payable in four and nine months from their date with a sentence of the Consulate of St. Malo of March 23, 1716, the said procuration empowering to receive from said Dame Perine Lemarié the said sums of 10,462 livres which she must have recovered having sued succession of deceased Sr. Le Blanc and he therefore prays that Dame Le Marié be cited before Council at its next session to be ordered to pay said sum. Signed: Le chevalier De QuerLorec.

Citation of Dame Lemarié. Signed: Salmon. See May 4, 1737 (8231).

(8241) April 20, 1737. Notice of citation served on Dame Perine LeMarie, widow of Sr. Gabriel de Morieres, at her domicile, in house of Mr. Fleuriau, following petition of the Chevalier de Querlorec, Captain of the King's ship, La Somme, now anchored in this Port, leaving copy of petition with notice of summons. Signed: Hugault, Sheriff.

April 15. (8208) fo 6. (2025) 1 p. **Contract** passed before Notary Royal between Sr. de Salmon, "Scrivener" (ecrivain) of the Marine on the store-ship (flute) La Somme, and Sr. Dominique Genssé, steward of said ship, with consent of Mr. Bizoton, Comptroller of the Marine, said Genssé to furnish to the King's store in New Orleans 585 pots of brandy, at the rate of 41 sols the pot, which Mr. de Salmon, acting in His Majesty's name, promises and obligates himself to have paid by the Treasurer of the Marine on delivery, with deduction of the 4 deniers for benefit of the Invalides of the Marine, Genssé furnishing mortgage security on his movables and immovables, present and to come here-

after, as agreed. Signed: Genssé, Salmon, DelaPlace, f. Gallot, Bizoton, Henry, Notary. Notary.

April 16. (8204) fo 6. (2023) 1½ pp.

Procuration by Sr. Jacques Hubert de Bellair and his wife, Catherine Neveu to (blank), to act for them in settlement of succession of Jacques Neveu and Michelle Chauvin, parents of Madam Bellair, who died on their way up to Illinois, during their lives residents of "Mont Real," Province of Canada. Signed: Bellair, Le Vasseur, Hugault, maricaterine Neveux Bellair, Henry, Notary.

April 15. (8206) fo C. (2024) 2 pp.

Acknowledgment by Sr. Laurent Boissiere and Renée Huet, his wife, of their indebtedness to the Company to the amount of 14,864 livres, 15 sols, which they obligate themselves to pay solidarily in six equal payments in six years, first payment to be made on April 15, 1738 and the last on April 15, 1743, furnishing mortgage security on all their goods, particularly on the negroes and on the plantation called St. Marc, bought with money advanced by the Company of the Indies. Signed: Boissiere, rene huet, JB Faucon Dumanoir, Hugault, "fame de Boissier," Bimont, Henry, Notary.

Approved by Salmon, Commissioner for the affairs of the Company of the Indies.

April 15. (23769) fo 6. 1½ pp.

Procuration by Sr. Jacques Hubert Bellair, a resident of New Orleans, to . . . blank . . ., to represent him at inventory and sale of goods of deceased Sr. Ignace Hubert Bellair and Barbe Chauvin, his parents, who resided in Mont Real, Canada. Signed: Bellair, Le Vasseur, Hugault, Henry, Notary.

April 17. (8254) 2 pp.

Petition to Superior Council by Sr. Dominique Genssé, Steward on board the King's ship, La Somme, stating that he holds an acknowledgment signed by Sr. Pery, merchant of this city, stipulating for a note that Sr. Le Brun, third pilot on said ship, had made by Sr. Calimache, Director of Dartagnan Concession, for 1000 livres, payable in June, 1737, to order of Sr. Pery, who promises to render account of it to said Le Brun, when he shall

have received payment, said funds to be remitted to Mr. Bodichon at Rochefort. Said acknowledgment dated June 20, 1736, endorsed by Sr. Bodichon for the sum of 401 livres, 11 sols, 9 deniers, which Le Brun owes him on his note of June 4, to Sr. Cosse, pilot on the King's ship, and as the petitioner shall have left this Colony before maturity of said note, he prays to have said sum of 401 livres, 11 sols, 9 deniers, seized in Sr. Pery's possession and see that said sum reaches petitioner. (No signature.)

(8255) April 17, 1737. Summons issued for next session of Council and permit to seize said note at the risk of whom shall appertain. Signed: Salmon.

(8255) April 20, 1737. Seizure by Sheriff Hugault, on petition of Sr. Genssé, Steward on board La Somme, of 401 livres, 11 sols, 9 deniers in possession of Sr. Pery and all else generally and notice served on him not to allow them out of his possession until payment to Sr. Le Brun. Signed: Hugault.

April 24. (8282) 1 p. See May 4, 1737. (8231) **Petition to Superior Council** by Sr. Jean Pradel, who holds two notes, one of 104 livres, 19 sols, made in France, January 24, 1721, and the other of 80 livres, made in Louisiana, November 23, 1731, by Sieur Dumont de Montigny, without possibility of ever effecting payment, and as he has heard that Montigny is about to leave for France and that he has nothing in this Colony, he prays that he be summoned before the Council to be ordered to pay said sums. Signed: Hugault, Sr. de Pradel.

April 24, 1737. Permission to cite said Sr. de Montigny before Council. Signed: Salmon.

April 24, 1737. Summons served on Sr. Dumont de Montigny on petition of Sr. de Pradel by Sheriff Hugault.

April 24. (8245) 2 pp. **Petition to Superior Council** by the Procureur Général of the King, for citation before Council at its next session of Sr. Trudeau, to order him a second time to pay the 1600 livres carried in note dated June 1, 1735, given to Sr. Juzan as balance of his wife's dowry, which

he, Juzan, turned over to Potin by a draft of January 24, 1736, to have it paid by Sr. Trudeau at its maturity. Fleuriau pleads that the note carrying a discharge became a movable and that Sr. Juzan could dispose of it as master of the community. Signed: fleuriau.

April 24, 1737. Permission to cite signed: Salmon.

April 24, 1737. Notice of citation served on Sr. Trudeau, Councillor, at his domicile in the City, in home of Mr. de la Pommeraye, his son-in-law, on petition of Sr. Fleuriau, Attorney General of the King, to be ordered to pay 1600 livres carried on his note of June 1, 1735, with interest thereon, to the King's treasury or to the Procureur Général, in default of which he will be thereto compelled by all means and rigor as for royal moneys. Signed: Hugault. Document in bad condition.

April 24. (8418) fo 6. (2080) 2½ pp.

Contract for a voyage after slaves, between Sr. Jacques Coustilhas, Marine Captain, and Sr. George Amelot, former Marine Captain of the Company of the Indies, Mr. Coustilhas having decided to send his brig, the St. Jean Baptiste, to the Isles of Martinique and to the Coast of Guinea and having selected Captain Amelot to command, said Amelot has accepted all conditions and consented to go to all places indicated, the boat completely outfitted and carrying merchandise suitable to the voyage intended, as per invoice, bill of lading and inventory signed by both contractors, agreeing to keep a sales book, to be able to render strict account, Sr. Coustilhas obligating himself to pay Sr. Amelot 130 livres per month beginning from the third of the present month to end after unloading in New Orleans, Sr. Amelot acknowledging that he has been paid 400 livres as a "gratification" for all the trouble he has taken for caulking, etc. It is also agreed that Sr. Amelot will be allowed to carry for himself four negroes from 12 to 18 years, whom he may trade for his own account, paying solely for the provisions furnished these negroes during the voyage. To insure Sr. Amelot's giving care to the other

negroes, Sr. Coustilhas has agreed to pay him 10 livres per head for the negroes belonging to the Company (piece d'Inde), and 5 livres for every small negro from 10 to 15 years, when landed in New Orleans, but he will receive nothing for those under that age. Sieur Amelot, on his side, obligates himself to render good and faithful account, to follow instructions faithfully, for the voyage as well as for the treatment of the negroes, under penalty of being deprived of his salary and of confiscation of the merchandise and negroes he carries for his individual account. Signed: Coustilhas, G. Amelot, LeVasseur, Hugault, Henry, Notary.

Ragged margin.

Note: This is clearly a slave-catching expedition.

April 25. (8252) 1 p. **Notice** served on Sr. Gerard Pery, merchant of New Orleans, to appear before Council at its next session to hear decision in case of Sr. Labrousse, proceedings to continue in his absence, if he fails to appear. Signed: Hugault.

(8253) 1 p. March 10, 1737. Notice served on Sr. Gerard Pery, on petition of Sr. Labrousse, to hold all sums that he owes or may hereafter owe to Sr. Le Brun, pilot, as per note of June 20, 1736, and a note signed by Sr. Calimache for 1000 livres, forbidding him to allow it to go out of his possession until so ordered by law under penalty of paying a second time, with costs, damage and interest thereon, summons to said Pery to appear before Superior Council at its next session to defend himself and answer as by right. Signed: Hugault.

April 26. (8259) 1 p. **Summons** to Sr. Antoine Bruslé, former Agent of the Company of the Indies, to appear before Superior Council at its next session to hear decision against him, following petition of Sr. Saultier, cabinet-maker of New Orleans, of February 28, 1737, proceedings to continue whether he be present or absent. Signed: Hugault.

(8260) 1 p. N. P. March 26, 1737. Summons to Sr. Antoine Bruslé, former Agent of the Company of the

Indies, to appear before Council at its next session to answer on demand of Sr. Saultier. Signed: Hugault.

8261) January 4, 1737. Petition to Superior Council by Sr. Saultier for citation of Sr. Antoine Bruslé, former Agent of the Company of the Indies, to be ordered to pay the sum of 200 livres on his note of September 4, 1736, by order given him by Mr. Voisin. Signed: Hugault, for Saultier.

February 28, 1737. Permission to cite. Signed: Salmon.

March 6, 1737. Summons to Sr. Antoine Bruslé, on petition of Sr. Jacques Saultier, to appear before Council "next Saturday" to answer demand of Sr. Saultier. Signed: Hugault.

April 26. (8242) 1 p. **Petition to Superior Council** by David Meunier, for citation of Michel Maigret, called Lamoureaux, to pay a debt of 300 livres. Signed: Hugault, for David.

Order for citation signed by Salmon.

Notice of citation served on Michel Maigret, carpenter, by Sheriff Hugault.

April 26. (8264) 1 p. **Petition to Superior Council** by Sr. Bernard Alexandre, for citation of Sr. Jean Baptiste de Chavannes to compel him to pay said Alexandre the sum of 700 livres which he owes him for rent of seven negroes since six months, at 200 livres per year for each of them. Signed: Hugault, for Mr. Alexandre.

(8624) Permission to cite. Signed: Salmon.

(8624) April 26, 1737. Notice of citation served on Sr. Jean Baptiste de Chavannes, at his domicile in house of Mr. Garand, merchant of New Orleans, leaving copy of petition with notice. Signed: Hugault.

April 27. (8247) 1 p. **Certificate** signed by Livaudais, Captain of the Port, that Sr. Montigny worked during 19 days painting the King's canoe, at Bayou St. John, in November, 1735, and during ten days painting the boat, The Louisiana, in January, 1736, in all 29 days.

(8248) May 4, 1737. Petition to Superior Council by Sr. Montigny, stating that owing the King the quantity of 30 quarters of rice which he

should have remitted to his store in New Orleans in 1735, at which time rice was worth 3 livers (un écu) the quarter, he thought his labor as above certificate testifies, would dispense him from said debt, wherefore he never claimed payment for his work. He prays that it be taken into consideration that if he had been paid at the time he would have eliminated said debt. The petitioner never worked by the day and work at Bayou St. John differs from that in the City, as he was obliged to hire a negro at 20 sols a day. Rice is now worth "six francs" (6 livres) and he hopes that your justice will consider his fatigue and labor and declare this debt wiped out. Signed: Demontigny.

April 30. (8349) 1 p. **Petition to Superior Council** by Sr. D'Auseville for citation of Sr. Calimache to compel him to pay a note of 78 livres, signed by Sr. Calimache, June 23, 1736, due to cargo of the ship Le Comte de Maurepas, which he refuses to pay. Signed: D'auseville.

Order for citation signed: Salmon.

Notice served on Sr. Calimache to appear before Council at its next session, following petition of Sr. D'auseville, holding procuration of Sr. Berry. Signed: Hugault.

May 2 (8224) (2030) fo C. 2 pp. **Sale and Transfer** of a bark named the St. Ann, by Michel Brosset, Mrs. Bunel acting for Mr. Cheval, third associate, to Michel Gerald, Jr., for the sum of 2000 livres, part paid cash and the remainder to be paid in six months, Sr. Gerald furnishing mortgage on his movables and immovables and particularly on said bark. Signed: Brosset, Labunel, Balcour, Michel f. Gerald, f. Gallot, Henry, Notary.

(8225) October 14, 1737. Promise by Sr. Michel F. Gerald to pay remaining 1000 livres, due on bark, the St. Ann, in six months from date of purchase, Sr. Brosset and Sr. Cheval being present, Sr. Brosset acting for himself and for Dame Bunel. Sr. Michel F. Gerald furnishes mortgage security, promising, obligating, etc. Signed: Michel f. Gerald, Brosset, chevale, f. Gallot, DelaPlace, Henry, Notary.

(May 3. (8262) 1 p.

Notice of Citation served on Sr. Jean Baptiste Prevost, former Attorney of Vacant Estates, on petition of Sr. Amyault D'Auseville, present Attorney of Vacant Estates, to be ordered to render his accounts to Sr. D'Auseville. Signed: Hugault.

(8263)

Attached to previous document: Excerpt from Registers of the Council, Session of March 9, 1737. Order to Sr. Prevost to render account to Sr. D'Auseville of all the successions that fell to him during his incumbency as well as those in deceased Sr. Rossard's file of which he (Prevost) must have exacted an account and of the Posts of the Colony; all papers and accounts to be remitted to said D'Auseville under penalty on Sr. Jean Baptiste Prevost of seizure of his goods and of his being bodily apprehended. After hearing the Council granted Prevost six weeks' delay to remit said accounts and successions. Signed: By the Council. Henry, Clerk of Council.

Notice of above order duly served on Sr. Prevost by Sheriff Hugault.

May 4. (8231) (2032) 4 pp.

Minutes of Session of Superior Council of May 4, 1737, at which were present Mssrs. Bienville, Governor; de Salmon, First Judge; de Noyan, Major of the Place; Mr. Bizoton, Comptroller; Sr. de Louboey, Lieutenant of the King; Delafreniere, Fazende, Raguet, Trudeau, Councillors.

Decisions:

Between Sr. Paquier, petitioner: Having seen the commission granted him by Mssrs. de Bienville and de Salmon, the inquiry made to that effect, the conclusions of the Procureur Général of the King, the Superior Council, after having administered the customary oath to Sr. Paquier, orders that said commission be registered in our Registry, that Sr. Paquier may take rank, seat and have deliberative vote in Council as Civil and Criminal Assessor, after the four titular councillors and in consequence Sr. Paquier was installed in this seat.

Between Sr. Henry, Clerk of Council, also petitioner: In consideration of the patents granted by His Majesty, the inquiry into life and morals, the conclusions of the Procureur

Général of the King, the Council orders the registering of his letters patent, dispensing him from repeating the oath as he has already taken it in said capacity.

Between Mr. Fleuriau, Procureur Général of the King, for recovery of sum due to Mr. Potin, former clerk of the Treasurer of the Marine in Louisiana, plaintiff; and Mr. Trudeau, defendant. The case heard, the Council has sentenced Mr. Trudeau to pay to the Procureur Général the amount of his note in deduction of what Potin owes to treasury of Mr. de la Pommeraye and to costs.

Mr. Trudeau deft. withdrawn.

Between Mr. de Querlorec, holding procuration of Mr. de Longpré, plaintiff; and Dame Perrine Lemarié, deceased. Council sentences Widow Demorieres to reimburse on returns of succession of Sr. Henry Le Blanc to Sr. Longpré the sums he claims; at the same time the debtors shall be prosecuted until payment, with costs; note of Sr. Demouy was remitted to Mr. de Querlorec, amounting to 1299 livres.

Mr. Fazende withdrawn.

See April 13, 1737

Between Sr. Pradel, plaintiff, and Sr. de Montigny, defendant: The Council after the hearing decided that there being no procuration from C . . . to collect the note, the demand is rejected, with privilege of recourse against defendant in France; as to the letter of exchange for 80 livres, dated November 3, 1731, defendant must pay with costs.

Mr. Fazende has withdrawn.

Between Sr. Livaudais as plaintiff, and Sr. D'Auseville, Attorney of Vacant Estates, defendant: Defendant ordered to pay 1500 livres which remain, on the production of vouchers by creditor, who will give him valid discharge; costs on defendant.

Between Sr. Pierre Piqurey, baker, and the Attorney of Vacant Estates, defendant: Council orders defendant to pay sum of 61 livres which will be put to his account in Baldit succession; costs on defendant.

Between Sr. Baudemont des Lauriers, plaintiff, as creditor of Baldic succession, and the Attorney of Vacant Estates, defendant: Defendant to pay 363 livres to Lefevre, surgeon, said sum to be raised on sale of plantation or immovables of succession of deceased Baldit; defendant to pay costs.

Between Sr. Jaoin, holding procuration of Sr. Lassus de Marsilly, plaintiff, and Sr. Ignace Trepagnier, defendant: Judgment reserved.

Between Sr. D'Auseville, Attorney of Vacant Estates, and Sr. Prevost, former Attorney of Vacant Estates: Council orders Prevost with given delay to render the accounts.

Between Genssé, steward on board the King's ship, and Sr. Pery, defendant: Decision that the note not having reached maturity, Sr. Pery will see to recovery of same. Document unfinished, stained and ragged. Each page bears signature of Salmon at lower end.

May 4, 1737. (8227) (2031) 5 pp. **Inventory of Succession** of Marie Eleque, deceased wife of Francois Brunet, made at his request as tutor of the children born of his marriage to said deceased and also as tutor to children of said Marie Eleque and her first husband, Jean Bolman, called St. Jean. Inventory also made of goods of Jeanne Hubert, widow of Thomas Asselin, called Orleans, as tutrix of Jeannette Asselin, her daughter, as Francois Brunet and Jeanne Hubert, Widow Asselin are about to contract marriage, and that they will thereby avoid all litigation between heirs of aforesaid parties concerning the share they may pretend to by right of succession. Said Brunet and Jeanne Hubert have agreed to proceed loyally and conscientiously to inventory of all goods, movables, immovables, effects and negroes on each side in the presence of witnesses for both parties. On Brunet's side: De Nicolle, Brantan, Louis Hugault, Sheriff. For Widow Asselin: Louis Giscard, called Benoit; Pierre Lamoury, resident of New Orleans. Signed: brunet, Lamaury, Giscard, Brantan, Robert, Henry, Notary.

May 4. (8249) 1 p. **Petition to Superior Council** by Sieur Antoine Aufrere, resident of this Colony, stating that he has remitted to Sr. Le Brun, pilot on the King's ship, La Gironde, a sum of 200 livres, as appears by annexed note, dated June 25, 1736, to bring him linen for shirts for his use, and, as said Le Brun did not come back

and sent him nothing for said sum and as he has moreover heard that he, Le B., left a note with Sr. Pery signed in his favor by Sr. Calimache, and that several seizures were made, he prays that he, Aufrere, be entered as privileged creditor. Signed: Aufrere. On reverse: "To be given to Hugot, Sheriff."

May 4. (8271) 1 p. **Excerpt from Registers of Superior Council,** session of May 4, 1737:

Between Sr. Jean Pradel, plaintiff, and Sr. Dumont de Montigny, defendant. Defendant shall pay 188 livres, 19 sols: 80 livres on the letter of exchange of November 25, 1731, drawn on Pradel's brother, and 104 livres, 19 sols on note made to Chardon, innkeeper, at Hennebon for board in January, 1721, and Sr. Benjamin Dumont de Montigny, defendant, will not be compelled to pay note to Chardon as there is no procuration; Chardon's only recourse will be in France. The letter of exchange of 80 livres shall be paid by defendant who will bear costs. Signed: By the Council, Henry, Clerk.

(8283) Between Sr. Genssé and Sr. Pery: After hearing Council orders that as note is not yet due, Sr. Pery will see to its recovery and will pay amount to plaintiff who will tender receipt.

Mr. Fazende withdrawn. Between Sr. Jacques Sautier, plaintiff, and Sr. Antoine Bruslé, defendant: Judgment in favor of Sautier; defendant sentenced to pay his note of September 4, 1736, of 200 livres, and to costs.

Mr. Fazende withdrawn. Between Sr. Alexandre David, called Lafassine, plaintiff, and Sr. Andre Joly, defendant: Judgment against Sr. Joly who must pay or return the said negroes in the course of the present year, otherwise he will be compelled to do so.

Between Antoine Hanoteau, plaintiff, and Pierre Joachim d'Haussy, defendant: Judgment in favor of d'Haussy who is to remain in possession of the goods of the community during his lifetime. Hanoteau's demands rejected.

(8284) Between David Meunier, plaintiff, and Michel , . . ., called lamoureaux, defendant: Judgment in favor of plaintiff who must pay

300 livres on his note of August 13, 1736, to Meunier and bear costs.

Between Sr. Alexandre, plaintiff, and Sr. de Chavannes, defendant: Defendant must pay hire of negroes and costs.

Between Sr. Piqurey, plaintiff, and Sr. Antoine Malon, defendant: Adjourned.

Between Sr. Jacques Lauchon, plaintiff: Considering the marriage contract of September 13, 1718, with Catherine Dubuisson and the mutual donation, Council orders that said donation be registered in Registry for execution in its form and tenor. Signed: Bienville, Salmon, LouBoey, noyan.

May 5. (27383) 3 pp.

Excerpt from Registers of the Superior Council of the audience of the Commissioner and associates, Judge in last resort for the affairs of the Company of the Indies:

Between Pierre Labé, settler in Louisiana, plaintiff, against Sr. Jean Baptiste Faucon Dumanoir, as Agent of the Company of the Indies, defendant: Following petition by Sr. Labé presented January 6, 1737, to charge account of one Sainton with the sum of 3861 livres which he remitted to the counting house (comptoir) of the Company of the Indies in deduction of what Sainton may owe it. Order by the Judge to Labé to credit Sainton's account with said sum of 3861 livres as remittance from this day and sentence the plaintiff to pay defendant the sum of 2000 livres in specie now current in this Colony and after arbitration it has been decided that there are still 2000 livres due to Company of the Indies, payable 1000 livres at the end of this year and 1000 livres at the end of next year for what it has furnished him. Signed: By my said Sieurs, Commissioner and associates. Henry, Clerk.

(27385) (Collated Copy)

January 8, 1739. Receipt by Jean Baptiste Faucon Dumanoir, Agent of the Company of the Indies, to Madam Widow Labé for the sum of 2000 livres paid in accordance with the above decree in 1738 and 1739, discharging her from all indebtedness to Sainton's account and to the Company of the Indies. Signed: Henry, Notary. Document mutilated.

May 5. (8285) fo C E. (2033) 3 pp.

Marriage Contract of Francois Brunet, blacksmith of New Orleans, son of deceased Fleurian Brunet and of Jeanne Groisel, a native of Planquezit, Parish of Saint Sauveur, Bishopric of Brieux, widower of Marie Eleque, on one side, and Jeanne Hubert, widow of Thomas Asselin, daughter of Jean Hubert, a native of Bourbon les Bains, Bishopric of Langres. Signed: brunet, hubert, Brantan, Lamaury, Le Vasseur, Giscard, Hugault, Piqurey, Henry, Notary.

May 7. (8288) fo C. (2034) 1 p.

Contract of Apprenticeship passed between Sr. Estienne Chabuit, tailor, and Marie Dandin, widow of Sr. La Roche, previously widow of Sr. Michel Canon, Cashier of the Company of the Indies, said Marie Dandin binding her son Michel George Canon to said Chabuit, to learn his trade as a tailor, for three years, during which time the widow is to support and nourish him, and that she will not be able to withdraw her son until expiration of time agreed on. Chaubit shall not conceal anything of his trade from him and he will endeavor to make him as perfect in it as possible. Signed: marie dandin, Estienne Chabuit, Lavasseur, Hugault, Henry, Notary.

May 10. (8293) fo 6. (2036) 1 p.

Procuration by Sr. Joseph Dutertre, Cadet in the Marine Troops to (blank), empowering him to receive from Sr. Pote or his agent in Maine (France) the amount of a letter of exchange drawn by Sr. de Coustilhas on him in favor of Sr. Morin of this Colony for the amount of 420 livres, and in default of Sr. Pote's settling this debt amicably, his attorney will obtain payment by all legal means possible; this procuration to be valid until revocation. Signed: Dutertre, Piqurey, Hugault, Henry, Notary.

May 11. (8298) fo 6. (2039) 2 pp.

Procuration before Notary Royal by Louis Melkior Grand Didier, Cadet in Marine Troops (blank), whom he empowers to act for him in case of decease of Dame Louise Magne. Gaurerd de Grand Didier, his mother, and to collect his share of what might accrue to him, and to plead, prosecute, etc., in case of

any litigation by his co-heirs. Signed: Grandidier, Hugault, Piqurey, Henry, Notary.

May 11. (8296) fo 6. (2038) 1 p.

Procuration by Dame Marie Jeanne Sulmon, widow of deceased Douville, midwife in this Colony, to (blank), to receive from Dame Nolim, her mother, the sum of 643 livres, from Sr. Nolim, her brother, and other sums due her husband. Signed: sulmon veuve de douville, Hugault, Piqurey, Henry, Notary. Document stained and ragged.

May 15. (8305) fo 6. (2042) 3 pp.

Procuration to (blank), by heirs of deceased Sr. Estienne Burelle: Sr. Guillaume de la Pommeraye and his wife, Jeanne Trudeau; Sr. Estienne de Lalande Dalcour, husband of deceased Marie Joseph Trudeau, on one side, and by Sr. Joseph Carriere and Dame Marguerite Trepagnier, his wife; Sr. Bernard Alexandre Vieil, surgeon in this Colony, husband of Marianne Trepagnier; Dame Francoise Trepagnier, wife of Sr. de Macarty, Captain of Marine Troops, authorized to same before his departure for France; Sr. Ignace Trepagnier, all grandchildren of deceased Sr. Estienne Burelle, and all co-heirs, have constituted their said special and general attorney . . in order to receive from the Royal Treasury or from the General Treasurers of the Marine at Paris, the sum of 4794 livres, 1 sol, 6 deniers, as co-heirs of said Estienne Burelle, their maternal grandfather, as ordered by decree of Council, April 30, 1726, and that of 11,232 livres, 3 sols, to be remitted in their name for which said attorney will give receipt and full discharge, giving him power to act even in cases which cannot be foreseen, on account of the distance, until revocation of this present. Signed: De Lapommerais, jeanne trudeau de la pommeraye, francois trepanié, macarty, Joseph Carriere, Margueritetpanie carriere (meant for Marguerite Trepagnier), Trepanié Alexandre, (This is signature of Marianne Trepagnier, wife of Sr. Bernard Alexandre Vieil), Alexandre, Dalcour, Piqurey, Hugault, ignace trepagnié, Henry, Notary. (Document stained and charred.)

May 15. (8300) (2040) 2 pp.

Contract to serve as surgeon on slave trader, before Notary Royal, between Mr. George Amelot, Captain commanding the two-masted vessel, the St. Jean Baptiste, now in this port, and Sr. Arnaud Vigean de Grandmaison, as surgeon on board said ship, to go from New Orleans to the Isle of Martinique, to Guinea, or to France, and return to this Colony, with a salary of 40 livres per month (which began from May 14), with his board and the extra sum of 20 sols on each negro head, piece d'Inde, brought from Guinea to New Orleans, with an advance payment of two months' salary to be paid by Sieur Gerard Pery who holds procuration of Sr. de Coustilhas, owner of the said brigantine. It is also agreed that Sr. Grandmaison will furnish the necessary medicines and instruments required in the exercise of his profession, Sr. Pery stipulating for remainder of payment and furnishing mortgage security. Signed: Henry, Notary. (Notarial copy.) Document soiled, charred and mutilated.

May 16. fo 6. (8308) (2043) 1½ pp.

Declaration in Registry of Superior Council by Francoise Richard, widow of Pierre Dupuy, called Goupillon, now married to Adrien Debat, called Ricard, mason, that last Monday night, at 2 o'clock past midnight, her husband was in a fury, without any apparent cause, and "ill treated her with kicks and punches and bruised her body black as a hat, as well as her face, and damaged her eye." At 8 o'clock in the morning he "took up a gun loaded with balls and lead and without help from the neighbors he would no doubt have killed her." This gun was exhibited at the Registry. She can produce testimony from her neighbors and from a laborer who works with him, and as her life is in danger she prays for bodily separation and for separation of goods. Signed: Henry, Clerk.

(8309)

April 25, 1738. Acknowledgment by Debat of having received the gun which was deposited at the Registry with consent of his wife. (No signature.)

May 20. (8310) fo C. (2044) 4½ pp.

Procuration by Francois Jahan, to Mr. (blank), to recover from Sr. Ardouin, a carpenter, papers which said Jahan, an employee of the Company of the Indies, left in his hands; also to recover those papers in possession of Sieur Painsecque and to enforce judgment against Sr. Girault. Ardouin, Painsecque and Girault are inhabitants of the Isle of Guadeloupe. Signed: Bimont, Lenormand, Jahan, Henry, Notary.

May 22. (8318) fo 6. (2046) 1½ pp.

Report Made in Registry by Jean Coussine, of theft committed in his house during his absence, on the 15th of last February. His gun was taken, his powder horn full of powder, 10 livres in gold, a fine blanket which cost 40 livres, four towels, two table cloths, about a half barrel of rice and two turkeys. Since then his negress has warned him that one of Mr. Labro's negroes bought a blanket, a stew pot and half of a table cloth; on inquiry Labro told him that one of Mr. Fleurie's negroes had sold these things. Coussine asks that the Attorney General be informed and investigate said theft, the value to be paid by the master if the negro is guilty. Signed by Henry, Clerk. (Ragged edges.)

June 1. (7799) 1 p. Collated Copy.

Invoice amounting to 39,548 livres, with receipt below said invoice to Sr. Rayneaux, commanding the St. Joseph of La Rochelle, for merchandise carried in invoice, with benefit of 25% on total sale which Sr. Rasteau promises to pay to Sr. Chasseriau. Original signed P. Rasteau.

Collated copy of excerpt from said invoice which Sieur Chasseriau acknowledges having taken from invoice of sale of Mr. Rayneaux. Signed: Henry Chasseriau.

(7800)

June 1, 1737. Certification by Sieur Pre Lamarque, holding procuration of Sr. Jacques Rayneaux, commanding the ship the St. Joseph, that above invoice is a true copy of the invoice of sale to Sr. Rasteau. Sr. Chasseriau has remitted his note to order of Sr. Rayneaux for 44 livres, 5 sols, payable when Sr. Rasteau will have fulfilled his engagement for said merchandise and without counting in sale a gun belonging to Sr. Chasseriau which

Sr. Rayneaux brought with goods which he believed to be property of Sr. Passerre. Signed: D Lamarque.

June 1. (9502) 2 pp. **Excerpt from Registers of the Superior Council, Session of June 1, 1737:**

Between Nicolas Adam, called Blondin, plaintiff, and Sieur de Chavannes, defendant: Sieur de Chavannes is to furnish a house and site in New Orleans, as per agreement under private seal between them. The delay granted has expired and defendant shall pay interest and costs. Within six months defendant must put up building as agreed and pay 5 livres per month for the house in which he lodges. Signed: By the Council. Henry, Clerk.

(9502) Notice served on Sr. de Chavannes and copy of judgment left at his house by Sheriff Hugault.

(9501) March 4, 1738. Receipt to Sr. de Chavannes by Sr. Nicolas Adam, called Blondin, for full payment of all that said Chavannes owed him. He has settled with the Company and gives Chavannes full discharge. Signed: f. Gallot, Nicolas Adam, Henry, Notary. (One signature illegible.) Document soiled, stained pale and torn.

June 1. (8330) fo 6. (2052) **Contract** passed before Notary Royal between Mr. de Salmon, Commissioner of the Marine, Ordonnateur (Intendant) and First Judge of the Superior Council, acting for the King, and Dame Therese Gallard, wife of Mr. Bouché de Grandpré, whose procuration she holds, obligating herself to furnish in the port of New Orleans, a boat made of three pieces of cypress, 40 feet in length by 8 in width and 4 in depth, which will be examined by the Captain of the Port, and paid 930 livres on delivery, with deduction of the tax for the Invalids of the Marine; Madame de Grandpré stipulating general mortgage security on all her property for said delivery. Signed: Salmon, DeLaPlace, f. Gallot, galar de grandpré, Henry, Notary.

June 1.
(8332)
fo 6.
(2053)
1½ pp.

Contract passed before Notary Royal between Mr. de Salmon, Commissioner of the Marine and Ordonnateur of the Province, and Mr. Estienne de Benac, who obligates himself to furnish 2766 pounds of Illinois flour to the King's store to be paid on delivery at the rate of 25 livres per 100 pounds, with deduction of the 4 deniers for the benefit of the Invalids of the Marine, said Benac stipulating mortgage security for said delivery. Signed: De Benac, f. Gallot, Salmon, DeLaPlace, Bizoton, Henry, Notary.

June 1.
(8334)
fo 6.
(2054)
1 2/3 pp.

Contract between Mr. de Salmon, acting for the King, and Jacques Ozenne, who obligates himself to furnish the King's store in New Orleans 102 pots of brandy and two casks of Bordeaux wine; the brandy at 2 livres, 10 sols the pot (jug), and the wine at 200 livres the cask, payment to be made on delivery, said Ozenne stipulating general mortgage security on all his goods for said delivery. Signed: Salmon, f. Gallot, Ozenne, Bizoton, DeLaPlace, Henry, Notary.

June 1.
fo 6.
(8336)
(2055)
1 p.

Contract passed before Notary Royal between Mr. de Salmon, Commissioner of the Marine and Ordonnateur, and Mr. Gapalliere, who obligates himself to furnish 2070 pounds of Illinois flour, to the King's store in New Orleans, payment to be made on delivery at the rate of 25 livres per 100 pounds, with deduction of the tax for the Invalids of the Marine, Gapilliere stipulating general mortgage security on all his goods, present and to come hereafter. Passed at the Intendency. Signed: Salmon, Bizoton, f. Gallot, DeLaPlace, Henry, Notary.

June 1.
(8328)
fo 6.
(2051)
1½ pp.

Contract passed between Mr. de Salmon, Commissioner of the Marine and Ordonnateur of this Province, and André La Branche, journeyman coming from Illinois, to furnish 2870 pounds of Illinois flour to the King's store in New Orleans, to be paid on delivery at the rate of 22 livres per 100 pounds, said André La Branche stipulating general mortgage security for same. Signed: Salmon, f. Gallot, Bizoton, DeLaPlace, Henry, Notary.

June 1.
(8342)
(2058)
3½ pp.

Session of the Superior Council of June, 1, 1737.

Were present: Mssrs. de Salmon, First Judge of the Province; Fazende, Raguet and Bizoton, Councillors:

Between Sr. D'Auseville, Attorney of Vacant Estates, settling succession of Mr. de St. Jullien, plaintiff, and Sr. Aufrere, former associate of deceased Sr. de St. Jullien, defendant: Council orders that vouchers of the said account be remitted to Registry for registration and to be communicated by Sr. D'Auseville and afterwards turned over to Sr. Raguet. It is also ordered that defendant will return to plaintiff the negroes, effects and other utensils owned by Sr. St. Jullien, which were entered into the partnership as it has now ended. Costs reserved. Signed: Salmon.

(8343)
M. Lafreniere and M. Bizoton withdrawn.

Between Mr. de Lafreniere, plaintiff, and Sr. Balcour, defendant: Council orders the defendant to prove that the greater number of his creditors consent to his passage to France, all things remaining in suspense. Costs reserved.

Lafreniere and Bizoton enter again.

Between Gauvin, innkeeper, and Sr. D'Auseville, Attorney of Vacant Estates, in settlement of succession of deceased Baldit. Council orders defendant shall pay plaintiff the sum of 109 livres, 18 sols for board as per note of March 2, 1736. Costs on defendant. Said Sr. D'Auseville, defendant. The Council orders him to pay face of his notes and memorial and by preference to take same on the furniture of said house.

(8340)

Between Jean Baptiste Lapierre, barber, plaintiff, and Sr. D'Auseville, defendant: Order to pay as per order of credit and costs.

Between Sr. Gerard Pery and Sr. Morin, plaintiffs, and Sr. D'Auseville, defendant: Parties to act as per order of credit and costs will be summed up by Mr. Raguet.

Between Sr. D'Auseville, plaintiff, and Sr. Calimache, defendant: Judgment in default against defendant and sentences him to pay plaintiff his note and costs.

Between Sr. Nicolas Adam, called Blondin, plaintiff, and Sr. de Chavannes, defendant: Council orders that in six months from date the building will be seized if agreement is

not fulfilled and moreover defendant will pay 15 livres per month to defendant for house he occupies. See June 1, (5902).

(8345) Between Sr. Voisin, plaintiff, and Sr. David Meunier, defendant: Council orders that said David Meunier be cited anew to make his declaration of what he owes to . . . Costs reserved. Signed: Salmon, Lafreniere, fazende, Raguet. (Document badly stained.)

(To be continued)

INDEX TO THE SPANISH JUDICIAL RECORDS OF LOUISIANA.

XII.

(Continued from October, 1925.)
June, 1772, to March, 1773.

By LAURA L. PORTEOUS.

Only one record has been found for the year 1772, viz: "Salomon Prevost, as agent, vs. Francisco La Chapelle," and is a very valuable document as it begins the winding up of the affairs of the defendant Company of the Indies. All boxes of this period are marked "Baton Rouge State Library," and show plainly the marks of fire and water. Some papers are so water soaked they have become stuck together and it is impossible to separate them, the writing is completely obliterated, and finally worms have feasted on them, devouring whatever fire and water might have spared. It is said that some of the boxes that survived the conflagration in Baton Rouge were in such condition they were not worth salvaging, others were afterwards destroyed. More than likely the complete file of 1772 perished in this way.

1772—June 2.
Salomon Prevost empowered by his brother, Francisco Prevost vs. Francisco La Chapelle, Testamentary Executor of the late Juan Bautista Prevost.
No. 18. 341 pages.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

Demanding an account of his administration of their deceased uncle's estate.

The first five pages have been removed from this record and are very valuable as they were the remittances from France consisting of the transfer of the rights of the Company of the Indies in the Prevost succession to the nephews of the deceased, and the procuration of Francisco Prevost of Paris to his brother in Louisiana.

The plaintiff, acting for his brother, sets forth that a compromise has been made by the Company of the Indies in Paris with the heirs of their former agent in Louisiana by which they cede all their rights and actions in the Juan B. Prevost succession to his nephews, Salomon and Francisco. In consequence thereof, he prays that Mr. La Chapelle as testamentary executor, be ordered to turn over the estate to him and render an account of his administration of it. On Odoardo's advice Unzaga orders the estate delivered to the plaintiff within 15 days.

Enrique Desperez as defender of the Company of the Indies, asks for a copy of this suit so as to safeguard the rights

of his Company. Francisco La Chapelle consents to the transfer and accounting and asks that the day be named for the delivery. Enrique Desperez asks that Salomon Prevost be ordered to give bond, which he does, with Antoine Philipe Marigny de Mandeville as surety. These proceedings are followed by a certified copy of the inventory of the Prevost succession which has already been translated.

July 16, 1772, at the home of Luisa Francisca Plassan, widow of Juan Bautista Prevost, in the presence of Leonardo Mazange, attorney for Francisco La Chapelle, Enrique Desperez, defender for the Company of the Indies, Andres Almonester, escribano, there were delivered to Salomon Prevost all papers consisting of letters, receipts, accounts, bills and notes as per inventory belonging to the Prevost succession, together with all real property which includes houses, out buildings, plantations, with the necessary implements, indigo, slaves, live stock and poultry.

July 30, Unzaga, on Odoardo's advice, orders a copy of the will filed which Salomon presents. This will is dated June 23, 1769. In a petition he states that in obedience to the Court's order, and also in virtue of the procuration which begins this suit, it is proven that he has sufficient power to act for the Company of the Indies, and that Enrique Desperez is in no way authorized to act for the said Company, he asks that he be dismissed from the suit.

July 31, Unzaga, on Odoardo's advice, rules: Considering that by the instrument filed in Paris April 8, of this year, it is made clear that the Company of the Indies ceded all their rights held upon the late Juan B. Prevost's estate to his nephew who in turn transferred this right, together with all claims he holds as legatee of his late uncle, to his brother, Salomon Prevost who by will of the deceased was left in charge of the plantation for just as long as he would maintain its administration. And, considering the consent given by Francisco La Chapelle, testamentary executor and guardian of the estate left by will to Salomon Prevost; His Lordship says he must and does suspend the appointment made of Enriques Desperez as defender of the Company of the Indies. Desperez must surrender, just as La Chapelle has done, all property and papers he may hold in accordance with the decrees herein, which will be without prejudice to the other creditors and legatees of the deceased.

Dated July 20, 1772. Account of the expenses incurred in the administration of the succession of Juan B. Prevost, amounting to 358 livres, 17 sols. This is followed by the vouchers consisting of leases, notes, bills, receipts, Father Dagobert's certificate of the burial of a slave named Thomas, aged 25 or 30, belonging to the Prevost succession, together with all petitions and claims for debts either for or against the succes-

sion. There is also filed a petition by the Widow Prevost dated January 17, 1770, in which she asks for the return of the house furnishings, bed and table linen, silverware and a mulatto slave called Jeannot, left to her by will of her deceased husband. Unzaga orders this petition granted, the widow to sign a receipt for the property turned over to her. This is done and she signs a receipt for the effects which were delivered to her September 7, 1770.

After submitting all the foregoing material Francisco La Chapelle presents his account and sworn statement, as follows:

Cargo	30,907	livres,	2	sols,	9	deniers
Data for year 1769	34,057	"	19	"	6	
	3,150	"	16	"	9	"

and as the liabilities are greater than the assets, de La Chapelle claims that the estate owes him the difference, which he asks be paid to him within a short space of time. This account and sworn statement is ordered sent to Salomon Prevost who answers August 6, 1772, saying that he has received a copy of the statement for the conveyance of the effects and papers belonging to the Prevost succession together with the accounts produced. He says that having received the foregoing, together with all special actions which belong to the estate in conformity with all arrangements previously made, he asks the Court to approve the transaction interposing its authority and judicial decree. Regarding the 3150 livres, 16 sols, 9 deniers due Francisco La Chapelle, with the property that has come into his care there is no effective money to pay this debt promptly. He prays the Court to demand that La Chapelle must not molest him until such time as debts due the Prevost succession mature and are collected or some other money should come to him when he will take up this obligation.

This is sent to La Chapelle, who answers on August 7, saying that the accounts have been liquidated leaving a balance due him; he prays for a writ of execution for this amount. Unzaga, on Odoardo's advice, orders the debt paid within 15 days.

August 20, Francisco La Chapelle and Salomon Prevost come to an amicable agreement and the Court rules that since the parties are in accord let the suit be dismissed, turning over all the deceased Juan B. Prevost's property to his nephew, Salomon Prevost, who must comply with all the obligations and dispositions of the testator while acting as guardian and administrator. Assessor's fees 200 reales for this decision to be included in the taxation of costs made by the present escribano which will be paid by the succession.

On August 22 Leonardo Mazange states that in the rendition of the accounts of the La Chapelle administration of the Prevost succession there was a document written by him which caused a considerable amount of work. He asks that when the taxation of costs is made his fee for this paper will be regulated according to its merit. Odoardo orders this piece of work taxed at 18 pesos.

August 31, Salomon Prevost sets forth that in turning over his uncle's property to him there are two chests full of papers locked with keys, these chests hold papers belonging to the Company of the Indies. Besides these there are 11 trunks also locked, the keys of all of these receptacles are in the possession of Juan B. Garic, and prays that they be ordered delivered to him. Unzaga, on Odoardo's advice, rules: "As it is prayed." On the same day in the presence of witnesses, Garic hands over the keys to Salomon Prevost.

July 20, 1773, Salomon Prevost states that he presented the documents by which it was made evident that the Company of the Indies had ceded all their rights in his favor. He needs these documents and asks for their return, offering to give a receipt for them. Unzaga, on Odoardo's advice, rules: "As it is prayed." Salomon receipts for these papers which had constituted the first five pages of the record. A note stating the removal is inserted where they had belonged. Although a taxation of costs had been ordered made, none appears on this suit, which ends here.

1773—January 8.
Genoveba Lesassier vs. Philippe de Mandeville.
No. 6. 10 pp.
Court of Governor Unzaga. Assessor, Cecilio Odoardo. Escribano, Andres Almonester.

To have a survey made and boundaries established with proper marks.

Genevieve Gallard Lesassier states that Mr. de Mandeville has set out or planted without the consent or assistance of a surveyor, a line of little thorny trees to separate their plantations which seem to her to be planted on her land. Besides, this hedge does not keep out her opponent's cattle from her cultivated fields where they destroy everything that is sown. She prays that de Mandeville be ordered to employ a surveyor to mark the boundaries. Unzaga orders an investigation made relative to the accusation brought against this new work, notifying Mr. de Mandeville to suspend it until judicial notice is taken of it. He must not let his cattle stray under the fences, as, according to custom, the right is given to the neighbors to kill them without having to pay indemnification. Signed: Unzaga. After much delay this decree is delivered to the defendant on February 19.

February 27, Mrs. Lesassier sets forth that her petition seems to have been misunderstood. The case is this: Don

Philippe (Marigny de Mandeville) has planted a fence of aromatic myrrh-trees which seems to be on her property, and behind this is a fence which because of its great age needs repair. On account of this defect his cattle come into her field and eat everything up. She asks that Don Luis Andry with her titles and a citation of the neighbors, measure the land and mark its limits and when this is done order the fences built according to custom between two plantations and condemn de Mandeville to pay the damages caused through his neglect.

She also asks that some person agreeable to him be named to examine the state of the fences and to appraise the damage done to her fields. She further states that Mr. de Mandeville paid no attention to the Court's order to keep the cattle on his own plantation because the day following the notification all or the greater part of his stock was found on her place. Six animals were rounded up and sent to the Charity Hospital as is the custom here in this country. This is sent to Odoardo for advice and on March 1, Unzaga rules: Let Don Luis Andry, second surveyor of this place, go to measure Doña Genoveba Gallard's plantation in accordance with her titles, summoning the neighbors, principally Don Philippe de Mandeville, to be present for the survey, and this done, mark the limits and if these do not suffer contradiction according to said titles let the fences be made as it was represented by the said Mrs. Gallard (Lesassier), that those belonging to the said Mandeville are in bad condition and have been the cause of the ruin of her planted fields; His Lordship gives sufficient commission to Don Luis Andry, so that he examine into this affair and understand its results in continuation of the survey as has been well provided. Assessor's fees, 10 reales.

Map and proces-verbal of the survey made by Luis Andry of Don Philippe de Mandeville's plantation which is adjoined on one side by Mrs. Lasassier's and on the other by Francisco de Reggio's, all three fronting on the river. This survey is to mark and fence off the proper boundaries.

1773—January 8.
License conceded to Santiago Beauregard to build the frigate "The Luiciana."
No. 60. 3 pp.
Court of Governor Unzaga.
No Assessor.
Escribano, Andres Almonester.

Santiago Toutant Beauregard petitions, saying, that in order to fulfill a contract made in Havana to ship sugar, it is necessary to construct a frigate measuring 83 feet of keel, French measure, by 28 feet 4 inches breadth of beam, said frigate to be named "The Luiciana." He prays that he be conceded a license to build in the shipyard where the others were constructed in the harbor of this city adjoining Port of France. In order to hold a clear title to the said frigate when

built he asks that it be registered and the registry be certified in The Governor's Office. Unzaga rules: Grant the license to build the frigate in the shipyard of this Port and when finished let the Escribano who will verify it, file a record of it in the Archives of his office and give a copy of this authorized document in due form to the petitioner which will serve as a title.

January 3, 1776, Andres Almonester issues the necessary document of registration ordered in the foregoing decree. April 10 of the same year, Juan B. Garic, signing as "Anotador," (Recorder and Chancellor of Mortgages), certifies that in the books of mortgages in his charge there appears up to today no mortgage against the frigate "The Luisiana," 300 tons, belonging to Santiago Toutant Beauregard. There is no taxation of costs.

NOTE: "Luiciana," "Luisiana." These are samples of the Art of Spelling as practiced during the Spanish Domination, Beauregard here has one opinion, Garic another as to how Louisiana should be written. "Luisiana" is correct Castillian. The writer always copies "as is" when using ditto marks otherwise employs accepted English spelling. L. L. P.

1773—January 9.
Pedro Siru vs.
Blas Gutierrez.
No. 16. 8 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

To collect back wages as pilot on a vessel.

Pedro Siru, who was pilot on the sloop "Our Lady of the Rosary," whose Captain was Marcos Olivares, says there is due him 100 pesos for his salary as pilot at the rate of 25 pesos a month, up to the 2nd of the current month, and as Blas Gutierrez, boatswain, has paid the crew by order of Governor Unzaga and he has been paid nothing, he makes this demand. He was engaged by Juan Ronquillo to be the pilot. He therefore prays that his salary be ordered paid. This is sent to the defendant who answers on February 9, saying that his opponent was engaged for the round trip which has not been completed and therefore he only owes him for half time, or 50 pesos, which he was paid. Neither he nor the sloop owes anything. He asks that this suit be ordered dismissed with the plaintiff condemned to pay costs.

This is sent to Pedro Siru, who answers on February 18, stating that it is convenient to his rights that Blas Gutierrez be ordered to declare if it is not true that he, Siru, did not leave with the crew and that he paid the others but not his pilot up to January 18, and if it is not also true that for the voyage the crew's pay was adjusted at the rate of 40 pesos and that regarding stops and delays and stops they were to be paid for at the rate of 10 pesos.

Blas Gutierrez makes his sworn declaration as follows: It is true that Siru left on January 18 and also that he paid the crew with the exception of the pilot. It is also true that

the voyage was adjusted at the rate of 40 pesos and also that he paid the crew for stops and delays in port at the rate of 10 pesos to each individual.

March 1, Pedro Siru, on the strength of Gutierrez' declaration, protests against the treatment he has received. He did not leave the boat until January 18, therefore he worked four months with 16 days' delay at the rate of 25 pesos a month. As it will appear in the suit prosecuted by the crew (see entry under January 22.—L.L.P.), they were paid for delays and stops. Blas Gutierrez has no ground for making an exception in the case of his pilot. He owes him 112 pesos, 4 reales, for wages, stops and delays. The allegation that the contract for the voyage would be for the round trip at 100 pesos is a very useless (excuse) because the sloop is here 8 or 10 months but the voyage only lasted two months. He could have repeated the return to Havana in the time he was laid up here and the delay was through no fault of his, therefore he should be paid with the rest of the crew. He prays that Gutierrez be ordered to pay his full salary. Unzaga, on Odoardo's advice, orders the debt paid within five days. This ruling is not obeyed. On March 11, the plaintiff prays for a writ of execution. The record ends here.

Note: The sloop was seized by the other creditors, as will be seen in a later entry of January 22.—L.L.P.

1773—January 12.
Juan Estevan Lunel
vs. Augustin Macarty.
No. 20. 12 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

To collect a note.

Claiming 290 pesos on note he has been unable to collect, defendant acknowledges the debt and in due course a writ of execution is issued, but before it is carried into effect the litigants come to an amicable settlement. Unzaga orders the case dismissed and the originals returned to Mr. Macarty, Mr. Lunel must give a formal receipt for the debt. No costs taxed.

January 14.
Juan Bautista Blaquet petitions to give freedom to a negress, Catalina, and her son, Francisco, slaves of Francisco Maney.
No. 47. 3 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

The petitioner, a resident of Pointe Coupee, sets forth that he wishes to free two slaves belonging to his neighbor for the good services they have rendered him. On one occasion they saved his life. In remuneration for said services he asks that the Commander of the Post be ordered to make a valuation of them, appointing appraisers for each interested party. When this is done

pass the act of emancipation and he will then pay in cash all costs occasioned. This is sent to Francisco Maney who fails to answer, which brings forth another petition asking that the Commander of the Post notify Mr. Maney to either come to the city or else empower some one to act for him. Unzaga, on Odoardo's advice, sends a despatch to the Commander of the Post authorizing him to notify the defendant to either come to the city himself or appoint some one to answer this demand. The despatch is issued and the record ends here.

1773—January 15.

This record gives the story of the marine disaster in which Bobe Descloseaux perished. He was a prominent official during the French regime, filling among other offices that of Ordonnateur (Intendant) of the Colony.

Maria Theresa Pineau, Widow de Verges, asks to call witnesses to verify a shipwreck.
No. 40. 99 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

The preliminary enquiry is followed by proceedings to put the petitioner in possession of the decedent's estate up to the amount of her granddaughter's dowry. It covers an unusual and interesting legal proceeding.

The first two pages very much torn, but the substance is a plea that witnesses be called to give the necessary information about the wreck of a frigate belonging to Mr. Lawreins and the death by drowning of Valentin Bobe, married to plaintiff's granddaughter, Maria Henrietta Le Grand D'Orgon, the death of the latter, and of her mother, Magdalena de Verges, widow D'Orgon, all said to have perished with the sinking of the ship. The first witness is Gilbert Guillemard who from what remains of his deposition, says that in November of the year just passed the ship, commanded by Captain Lawreins, with whom Valentin Bobe, his wife and mother-in-law had sailed, went down with all on board at a place called "El Martir." No one was saved.

Juan Lafitte is appointed interpreter to the English Captain who is to give his testimony and who does not understand French. Lafitte interprets for the first witness, John Nash, English, who takes oath in conformity to his own law because he is a Protestant, "by God Our Lord and the Holy Bible," declaring that it is evident that the frigate commanded by Mr. Lawreins was wrecked and all on board drowned. It is known to have sailed on November 6, of the year just past, from Port Providence. He was informed by the crew of a ship arriving at the end of the year that at the entrance to the Canal de Bajamen they saw fragments of many cannons and a little lower down chests of hard money besides much scattered wreckage and by these signs it was known for a certainty that the frigate in Mr. Lawreins' charge had been lost at this place at which it was physically impossible for any person to escape.

The next witness, John Hunt, also English, took oath by

God Our Lord on what he believes of the Bible and Evangelists, according to the law he professes, and declared that being on the Island of Mul, French part, he learned that Mr. Lawreins' frigate and an English boat perished at Martyr's Island (La Isla de el Martir), no person having been known to have been saved. This news was brought to Providence Island by another English boat which was traveling with the other two that were lost.

Pedro Portal, called Cadet, appeared, who was evidently a Catholic, because he took oath by God and the Cross. He testifies that when he was at the French part of the Island of Mul he learned that the frigate commanded by Mr. Lawreins together with an English boat perished at the Island of Martyr and that no lives were saved. This news was brought to Providence Island by an English ship which was sailing with the two that were lost. This news was also brought to the Guarico by another ship arriving at Port au Prince. He was assured by them that it was certain that Mr. Lawreins' ship was lost.

Luis Ranson appeared testifying that about 15 days before an English Captain told him that at Providence Island he saw many cannons of different calibre besides chests with hard money and many other things. He was told on the Island that they were lost from a ship which had been wrecked on the Island of Bamini and Callo de Roque. The witness has received two letters from Santo Domingo, France, one from Mr. Poupet dated November 26 of last year, and the other from Mr. Favrot, he does not remember the date, but both mention the loss of Mr. Lawreins' ship with all on board.

After the taking of testimony of these witnesses, Mrs. de Verges files certified copies of the marriage contract dated April 25, 1772, of Jean Arnould Valentin Bobe (Desclouseaux), Commissary of the French Marine, Agent and "Ordenador" for the affairs of His Most Christian Majesty in this Province, native of Versailles, at present living in this city, legitimate son of Juan Bautista Claudio Bobe, Señor Desclouseaux, Commissary of the Marine and former "Ordenador" of this city under the French administration, and Maria Jacquinot de Lorme, both parents born in the city of Versailles and deceased, for the first part, and for the second, Maria Henriquetta Dorgon, native of Natchez, daughter of the deceased Juan Henrique el Grand Cavallero Dorgon of the Royal and Military Order of Saint Louis, and Magdalena de Verges.

(Note: This is the first marriage contract found so far drawn up according to Spanish procedure and in that language.—L.L.P.)

This is followed by a marriage certificate signed by Father Dagobert, dated May 5, 1772, of Jean Arnould Valentin Bobe Desclausseaux, widower by his first marriage of Francoise Elizabeth Bernaudy to Marie Henriette Dorgon, daughter of Henri

Le Grand Chevalier Dorgon and Marie Magdeleine de Verges. Signed in the original F. Dagobert Cure, Bobe Declosseau, Marie Henriette Dorgon, Luis Unzaga y Amezaga, Antoine Joseph Aquiare, Navarre (blot) de Verges St. Luc, Pierre de Verges, Magdeleine de Verges Dorgon, Chauvain Desillet, Aubert La Coste, de la Chaise, Destrehan.

This is followed by the baptismal certificate dated December 17, 1768, of the adult Miss Henriette Marie, born September 8, 1755, at Fort Natchez, whose baptism was deferred for lack of a priest at the Fort, daughter of Henry Dorgon and Magdeleine de Verges, the god-father was Pierre de Verges, officer of a detached company of marines and the god-mother was Marie Therese Pineau, widow of (Bernard) de Verges, Chevalier of the Royal and Military Order of Saint Louis, Captain in Chief of the Engineers of this Province, who signed with Father Prosper, Capuchin, Vicar.

Copy of the marriage certificate dated April 23, 1753, of Chevalier Henry D'Orgon, native of Paris, Parish of St. Germain, to Marie Magdeleine de Verges, native of this Parish, daughter of Mr. (Bernard) de Verges and Marie Therese Pineau. This marriage took place in the presence of M. Louis de Kerlerec, Captain of the Vessels of His Majesty and the Government of this Province. Vincent Guillaume Le Senechal Dauberville, Jean Baptiste de Membrede Simars de Belisle, (name torn away) de Favrot, de Verges Sr. with Father Dagobert officiating, all signing.

Copy of the baptismal certificate dated April 17, 1736, of Marie Magdeleine de Verges, daughter of Bernard de Verges and Marie Therese Pineau. The god-father was Louis Joseph Bizoton, controller for the King and the god-mother Magdeleine Broutin. Father Jean Francois, Capuchin Missionary, officiating.

Copy of the marriage certificate dated December 29, 1733, of Bernard de Verges, Lieutenant of Engineers on half pay for the King, son of Francois Artus de Verges, officer in the regiment of the troops of the Gramontoises D'Urt at the border country, Bishopric of Bayonne, and Marie Therese Pineau, daughter of Pierre Pineau and Suzanne Monier, native of La Rochelle, parish of St. Sauveur, Bishopric of La Rochelle. The register was signed: de Verges, Marie Therese Pineau, Broutin, Magdeleine Broutin, de Gauvrit, de Mondretoir, Father Pierre, Capuchin, Apostolic Missionary, officiating.

February 14, 1773, Marie Therese Pineau de Verges having presented the foregoing exhibits, sets forth that she has brought this suit to prove the wreck of the frigate, Mr. Lawreins, commanding, which sailed from this port loaded with war supplies destined for the Kingdom of France. She has already proven by the testimony given by her witnesses that her daughter, granddaughter and the latter's husband were

drowned in the wreck. By her granddaughter's marriage contract she has proven that as a dowry she had 4000 pesos and as a marriage donation she received an added 4000 pesos. As heir to this said granddaughter and also of her daughter she claims this 8000 pesos and asks to have it provisionally seized from the property left by Mr. Bobe, before sailing, in this city. Unzaga, on Odoardo's advice, rules: that Mrs. de Verges has not proven the existence of the property she wishes to seize, let her be notified to this effect so that she may use it for her rights. Assessor's fees, 2 pesos.

March 20, 1773, plaintiff states that Mr. Bobe left certain property in Antoine Thomasin's charge; she asks that he be summoned to make a declaration of "in what it consists," and when this is done, make the seizure and place the property taken at the disposition of the Court. Thomasin is cited to comply with the foregoing request. On March 31, he declares that he holds in his possession money and other property belonging to Mr. Bobe which he proceeds to enumerate. Unzaga, on Odoardo's advice, orders Thomasin to hold in his possession at the disposition of the Court all property belonging to Juan Bautista (Valentin Arnould) Bobe and Magdalena Dorgon.

The case is dormant for two years, then (April 6, 1775), Mrs. de Verges reiterates her plea that Thomasin deliver to her the money he holds in his possession belonging to the Bobe-Dorgon estate so that she may administer it, offering to give bond promptly. Unzaga, on Odoardo's advice, orders the property delivered within three days, Mrs. de Verges giving bond as per agreement.

April 19, Antonio Thomasin answers in Juan Valentin Bobe's name saying that he has received a copy of the foregoing decree ordering him to deliver this money. It will be very prejudicial to him to do so unless he sees the records of the case. The Court orders the records sent to him for two days. When Thomasin has looked them over he refutes Mrs. de Verges' claim, saying that an absent person's property can not be turned over to the heirs until after ten consecutive years have passed without his being heard of, which must be joined to the public form presuming him to be dead, the party claiming the property giving a full bond as security. According to this same law the death of the party not having been proven and he having left an agent in charge of his property, this said agent will remain in authority for 20 or 30 years of absence. At which time the property should be delivered to the heirs provided they give the bond demanded of them. The proofs offered by Mrs. de Verges can not have effect for three reasons: (1st.) Mr. Bobe has only been absent two years and some months; (2nd) the testimony given by the witness does not prove Mr. Bobe dead as they gave hearsay and not eye-witness evidence; (3rd) in the case of a shipwreck persons

supposedly drowned have been known to return to their families from foreign countries after many years. He asks to have the decree revoked ordering him to turn over the Bobe property to Mrs. de Verges, as she has not proven the deaths of her daughter, granddaughter and the latter's husband, and that her suit be dismissed.

April 26, Mrs. de Verges asks that the escribano give her a certified copy of the procuration by which Leonardo Mazange was empowered to act for Joseph Bobe, a brother of Valentin Bobe, to recover the property he left. If this demand has not been made in conformity to law she asks that it be put in proper form and delivered to her. Here filed is the certified copy of the procuration drawn up in France by Joseph Guillaume Stanislas Bobe Desclaseaux, clerk in the bureau of Mr. Bertin, Minister and Secretary of State, who generally makes his home in Versailles, on Anjou Street, Parish of Saint Louis, calling himself sole and only heir of his brother, Jean Arnoult Valentin Bobe Descloseaux, who was in charge of the affairs of the administration of the Marine in Louisiana and a resident there who sailed from that Port to come to render an account of his said administration to the Court. The ship upon which he sailed was wrecked. He hereby appoints Mr. Leonardo Mazange as his agent in Louisiana to settle his brother's succession and to treat with and make all arrangements with the heirs of his brother's wife who perished with him in accordance with their marriage contract.

April 27, 1775, Mrs. de Verges sets forth that by the foregoing procuration the deaths by drowning of Mr. and Mrs. Bobe and Mrs. Dorgon, has been made clear and also that a settlement must be made with her granddaughter's heirs for what belongs to her of the estate as stipulated in the marriage contract. She prays that Antonio Thomasin be ordered to comply with the decree of page 42 and deliver to her Mr. Bobe's property to her without delay.

The Court orders him to present his account and sworn statement which he does, together with all notes, bills, receipts, etc., also all papers concerning Mrs. Dorgon's affairs consisting of notes, letters, etc. Mr. Bobe's estate amounts to 21,338 livres, 9 sols, 3 deniers, and Mrs. Dorgon's to 881 livres, 17 sols, 6 deniers. The sum total being 22,220 livres, 6 sols, 9 deniers, which he delivered in gold and natural silver (plata fisica) and asks that the escribano count the money and certify to its correctness so that he may be officially discharged from the administration of the two estates and to be exempted and freed from all further responsibility, and also to have his accounting approved and order all parties to abide by this said accounting. His requests are granted and on April 29, 1775, Almonester certifies that he counted the money and finds that it amounts to 4444 pesos, 1 real, in specie and doubloons, which

is the same as 22,220 livres, 6 sols, 9 deniers mentioned in the account. In testimony whereof he puts this down as a matter of record.

Mrs. de Verges gives her receipt for the above and further states that she has no complaint to make of the account and sworn statement already rendered, on the contrary, she finds that it has been made in conformity to law and asks it be approved and that all parties abide by this said accounting. Unzaga, on Odoardo's advice, rules that with Mrs. de Verges' consent he approves and does approve the accounting rendered by Antonio Thomasin on page 63. He orders a taxation made of the costs to be paid by Mrs. de Verges. Assessor's fees, 4 pesos for this ruling.

In the taxation of costs, although the decision was that Mrs. de Verges was to pay costs in the table it appears that Mrs. de Verges was to pay 412 reales and Mr. Thomasin 148 reales. The two amounting to 560 reales. Dated June 14, 1775.

A mortgage according to the Spanish form with the mortgagor's wife renouncing.

September 24, 1777, Mrs. de Verges presents a certified copy of a deed of mortgage for a sight loan and sets forth that Pedro Chabert has in his possession at the disposition of this Tribunal 21,720 livres, 6 sols, 9 deniers, as will appear in the aforesaid written document. She prays that Chabert be ordered to deliver this amount to her children when all are of age and that he obligate himself to pay her debts and to deliver to her the interest on the money for her living expenses.

The document filed is as follows: a certified copy of a mortgage dated April 29, 1775, by which Pedro Chabert and his wife Carlota Lalande, borrow from Maria Pineau, Widow de Verges 21,720 livres, 6 sols, 9 deniers, at 5% interest which is a part of the 22,220 livres, 6 sols, 9 deniers from her inheritance from her daughter's and granddaughter's estates. This amount is placed at the disposition of the borrowers to be produced whenever called for, and to be returned on demand. As a security for this loan they obligate their present and future property and rents, especially their plantation composed of 14 arpents, 12 toises front by the ordinary depth, situated two leagues and a half from the city lower river on this side adjoined by Mr. Robert Montreuil on one side and Juan Meziers on the other, and 17 slaves belonging to them, viz: Nicolas 45, Catherina, his wife 40, Pedro 22, Thomas 20, Margarita 15, Maria 13, Juan 8, Carlota 10, all children of the foregoing couple. Gregorio 25, Caterina 23, Sesar (Caesar) 40, Sira (Sarah) 30, Antonio 48, Sapato his son, 30, Luisa 32, Pedro Chancelier (Chancellor) 38, Silvia 27, who remain subject to the payment of the sum and interest and must not be alienated. They give power to the Justices of His Majesty that they will obligate themselves to its ful-

fillment with the rigor of a definitive sentence passed in authority of a thing adjudged and they renounce the laws in their favor with those in general which forbids it in due form.

Carlota Lalande, the wife of the mortgagor, renounces the laws of "Beleyano Senatus Consultus" new and old constitution Laws of Toro Madrid and Partida and all the others that are and speak in favor of women to which effect she has been notified by the present escribano as one who knows them as married persons. She renounces them (all laws in her favor) and swears by God and the Cross that she has not been induced or intimidated but authorizes this written document for her husband and not for any other person. In testimony whereof they sign, the witnesses being Nicolas Forstall, Francisco Maria de Reggio, Guido Dufossat, Pedro Chabert, Carlota Lalande principals, Andres Almonester y Roxas, escribano.

(Note: This is the first of the mortgages drawn up according to Spanish legal procedure whereby the wife becomes a party to the act by which her husband obtains a loan and becomes co-responsible with him.—L. L. P.)

1773—January 22.
Antonio de Blanc
vs. Blas Gutierrez.
No. 33. 60 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

To force debtor to acknowledge and pay debts, followed by seizure of the sloop "Our Lady of the Rosary."

Antonio de Blanc, contractor for the public slaughterhouse, sets forth that it is convenient to him that Blas Gutierrez, owner and boatswain in charge of the sloop called "Our Lady of the Rosary," be summoned to declare under oath if he has not been given by the petitioner meat to the value of 23 pesos, 2½ reales, to feed his crew, and that likewise he has received from the Auditor of War 200 pesos in part payment for what was due besides 50 pesos more by the hand of Juan Ronquillo for like costs, two pieces of canvas which were taken in the petitioner's name to make sails for the sloop from Luis Ranson's warehouse valued at 40 pesos. All these entries amounting to 313 pesos 2½ reales.

Blas Gutierrez in answer declares that the only debt mentioned that he owes is 18 pesos, 1½ reales, the other 5 pesos, 1½ reales Marcos Olivares owes. Of the other things it is true that he has received the 200 pesos and also the 50 pesos besides the two pieces of sail cloth valued at 40 pesos.

Antonio de Blanc replies that since Guiterrez has acknowledged that he owes 308 pesos, 1 real, he asks for a writ of execution for this amount. The writ is issued and entrusted to Nicolas Fromentin, deputy sheriff, for execution who on January 29 reports to the escribano that as the defendant did not

pay nor point out anything to attach he seized the sloop with all its anchors, riggings, sails and the rest of its belongings. This seizure was made in the presence of Pedro Cowley, Claudio Cogini (Cofigny) and Esteban de Quinones witnesses. Signed Nicolas Fromentin and Andres Almonester.

January 29, plaintiff files eleven meat and bread tickets and claims a debt of 5 pesos, 1½ reales from Marcos Olivares and asks that he be summoned to verify his signature on said tickets and to acknowledge that he owes the amount stipulated thereon for meat supplied to the crew of the ship. Marcos Olivares under oath states that the signature is his but personally he owes nothing. This amount of meat was consumed by the crew of the ship at the time it was bought and must be charged to current expenses. Under these conditions this debt should be put back with those due by Guiterrez, thereupon de Blanc asks that the sloop be sold for debt and when this is done he be paid the 313 pesos, 2½ reales originally demanded. He asks that the sloop be appraised, naming as his appraiser Carlos Laveau and asks that Gutierrez be ordered to do likewise.

February 6, Juan Ronquillo, late Captain of the sloop "Our Lady of the Rosary" presents a signed statement from Gutierrez acknowledging that he owes the said Ronquillo 88 pesos for the one month and 26 days that he served as Captain of the sloop which was adjusted at 30 pesos a month with an allowance of 4 reales per day for his daily rations besides 6 pesos lent to him by Ronquillo to pay the sailors. He asks that Gutierrez verify his signature to this instrument which he does, declaring that the 88 pesos are due for services to the sloop. Whereupon Ronquillo asks that the sloop which has been seized be sold at auction to satisfy his claim for 88 pesos.

The following claimants each in a separate petition presents the original script for his debt and a copy of his notarial act appointing Broutin as his attorney asking that the defendant be summoned to verify his obligations. These creditors are sailors of the sloop, viz: Alfonso Bastante, Pancho Hernandez. Baptiste, (surname not given) Francisco Ronquillo, Pedro Monten, Nicolas (surname not given) Francisco Curasol and Ataila Cozinero. Their combined demands amount to 132 pesos. On February 8, they ask that Gutierrez be summoned to verify it. This he does, thereupon the above named sailors ask that their debts be considered and included and that the writ of execution which has been issued against the sloop be understood to cover the amount due them.

Other creditors now come forward to present their claims against the defendant; Pedro Rivero for 66 pesos; Juana Piqueri, a baker, 39 pesos, 2 reales for bread supplied to the crew; Manuel Solis 24 pesos for the daily expenses for the crew.

February 12, Unzaga on Odoardo's advice rules: Let it be understood that the writ of execution issued herein be for the sum of 662 pesos, 4½ reales the sum total of the various claims which Blas Gutierrez has acknowledged that he owes the petitioners for provisions and expenses incurred for the crew of the sloop in his charge, and that the sloop be called for public sale to fulfill the ends of the law. Let the parties be notified to this effect so as to appoint expert appraisers within one day to make a valuation with a warning that failing to do so they will be officially named. Assessor's fees 4 reales. Signed Unzaga and Odoardo.

On the same day plaintiffs name Francisco Hisnard (Hinard) Ship-Captain as their appraiser. This appointment receives the approval of the Court, the Captain qualifies and on February 13, Blas Gutierrez appoints Juan Lavergne as his appraiser. He accepts and qualifies. The inventory is made on the same day by Messrs. Hinard and Lavergne who value the sloop and its equipment at 600 pesos. The said inventory in translation is as follows:

Inventory of the sloop "Our Lady of the Rosary," and of her tackle, equipment, etc.

"In the city of New Orleans, on the thirteenth of February of one thousand seven hundred and seventy three, before me the escribano, Don Francisco Hinard and Juan Lavergne in accordance with their appointment and oath which they have taken proceed to the appraisement of the sloop named 'Our Lady of the Rosary' in the following manner:

First the hull of the ship with its rudder and helm, a cooking stove with two caldrons, a coffee-pot a chocolate-pot.—An anchor with two cables.— A main-mast with its gaff-sail boom, its bowsprit, with its jib-boom. A binnacle.— Two compasses to navigate the ship,— Two Marline-spikes.— One hand-adze.— One hand-saw,— Three gimlets.— Two watch-glasses.—One main-sail,—One new forsail.— One jib, and one square sail with its yard (arm).— Two pumps with three iron spear-boxes.— Two extra of the same without iron spear-boxes.— Two javelins (jibalentos?) Five sky-sails.— Four top-sails of the main and foremasts.— One deep-sea-lead without sounding lines.— One Spanish flag.— One speaking-trumpet,— One (pestago, pasteca?) snatch-block for the anchor.— Eight mortars, six of one caliber and two of another.— Two powder-flasks. One extra boiler for pitch or tar.— One axe.—One Water-tank.—Four water-casks, two leaky and two good.— One iron ship-gauger.—One quarter cask with iron hoops.— The ship's principal rigging, cordage, and stays all in good condition and serviceable for 16 months. A new center stay,— One extra runner. The working of the ship all in good order except the main sheet and the center

sheets which are found half-serviceable. Every thing else is sufficient for navigation. One boat with four oars which can be rowed. It being well understood that there is nothing else, (to inventory) all was valued at 600 pesos by the experts who have made the appraisement faithfully and well in the presence of Pedro Cowley, Francisco Broutin, Esteban de Quinones, witnesses, (Signed) Hinard. Attested before Andres Almonester y Roxas, Notary Public."

The first, second and third calls for the sale are made February 13, 16, and 19, and on the 23rd. the plaintiff prays for the appointment for the day for the sale. Unzaga cites the defendant for the sale. March 2, Unzaga on Odoardo's advice passes the definitive sentence ordering the sloop which has already been seized, sold for debt, the creditors to be paid in full from the proceeds. The purchaser must give bond according to the Law of Toledo. The defendant is condemned to pay costs.

Bond.—March 2, Carlos Laveau before the escribano and witnesses declares that in the Governor General's Tribunal a suit has been prosecuted by various creditors against Blas Gutierrez for 662 pesos, 4 reales for supplies for the ship and crew. His ship has been seized and ordered sold for the benefit of the creditors, to the extent of their debts and costs. The purchaser being called upon to give bond according to the Law of Toledo before adjudication. In order that this decree may have effect in due and proper form in conformity to law, he, Laveau, being certain and well informed of what (has taken place) in this case constitutes himself bondsman for the said Gutierrez and obligates himself that in event of the said sentence being appealed or that it should be revoked in all or a part by a competent Judge, he will return and restore for the defendant the amount which the Court has ordered paid to the plaintiffs. For all of which he makes this cause and debt his own and without any process, execution, citation nor other proceedings by right of law, and for the security and fulfillment of this bond he pledges and obligates his present and future estates including the warranty clause renouncing the laws in his favor with (those) in general which it prohibits, signed and witnessed Pedro Cowley, Nicolas Fromentin and Esteban de Quinones (Signed) Carlos Laveau, Andres Almonester.

March 6, the creditors say that the bondsman offered by Gutierrez being fully and freely guaranteed, the defendant agreeing to pay costs they are in accord to return the sloop to him with all that belongs to it on condition that he pays them what he owes them within 4 months. The record ends here without any taxation of costs.

1773—January 28.
Francisco Blache vs. Henry Deprez (Desprez).
No. 3811. 6 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Juan B. Garic.

To collect a debt.

The plaintiff claims 2496 livres on two notes. Defendant under oath acknowledges the signatures but avers he can not pay this money as he is acting as Carlos Luis Blondeau's agent. He can prove that plaintiff Blache owes his client a debt due the latter's son's estate which must be paid first. Blache denies that he is indebted to the Blondeau succession and asks that his own debt be ordered paid. Unzaga, on Odoardo's advice, rules that the notes must be paid within three days.

February 17, the two parties say they have reached an agreement and ask that the costs be taxed. The Court decrees that with the consent of both parties the suit is dismissed, the original notes to be returned to the debtor and a taxation made of the costs. Enrique Desprez signs a receipt for the original notes. There is no taxation of costs.

January 28.
Joseph St. Armand (Marie Josef Armant) vs. Francisco La Geay.
No. 18. 5 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.
To collect a note.

Plaintiff presents original note, claiming 266 livres in hard pesos, asks that the debt be ordered paid and defendant acknowledges the debt and is ordered to pay it within three days. The record ends here.

January 29.
Juan Valentin Bobe (his agent) vs. Joseph Ferrand.
No. 45. 12 pp.
Court of Alcalde Duplessis.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

Suit to gain possession of a contract signed by Oliver Pollock—the latter is the "favored American" of O'Reilly's regime.

Juan Bobe's agent, Antonio Thomasin, asks that Joseph Ferrand be summoned to state if he holds in his possession an obligation for 14,000 livres signed by Oliver Pollock in favor of his client to be paid next April. Ferrand under oath declares he holds in his possession a conditional obligation made by Oliver Pollock in favor of Mr. Bobe for the delivery of 14 negroes, and in consequence 14,000 livres under the conditions understood. Duplessis, on Odoardo's advice, orders the defendant to present the obligation within three days. It is recorded that he complies with this decree at the

escribano's officè on February 14, and plaintiff then asks that he surrender this obligation and pay costs.

February 18, Joseph Ferrand presents the notarial act by which he appoints Leonardo Mazange as his attorney and sets forth that he has been ordered to pay costs, which does not seem just for two reasons, first, the obligation remained in his possession because when Mr. Bobe made him his agent it was turned over to him with other papers to make collections and disbursements, under these conditions this obligation came legitimately into his possession; secondly, as he was requested and ordered by the Court, he made the surrender without the least resistance, therefore he has not occasioned any cost and it should not be charged against him to pay for what he has not caused.

Alcalde Duplesis, on Odoardo's advice, rules that the obligation already exhibited be delivered to Mr. Bobe's agent and that Mr. Ferrand be given a receipt for it, and that the costs be paid by the Bobe interests which have caused the suit. To this effect let the present escribano make a taxation including 10 reales assessor's fees for this ruling. Antonio Thomasin signs the receipt for the obligation on February 26. Taxation of costs at 15 pesos, ½ real.

1773—February 6.
No. 3.
Inventory made for Mr. de Vaugine, as a basis for a partition of the community between himself and his late wife.
No. 31. 7 pp.
Commander of the Post of Atakapas. Fuselier de la Claire.

French.

In the year 1773 on the 6th day of the month of February, at 9 o'clock in the morning at Atakapas, vulgarly called La Fausse-Point, on the eastern bank of the river "Teichte," we, Gabriel Fuselier de la Claire, Commander of the district, at the request of Mr. de Vaugine, Captain of His Majesty's Army, will make an inventory of his property so as to effect a separation of community interests between himself and his late wife, Pelagie Petit de Livilliers, for a partition among the heirs. He declares that they went to Fausse-Point to Mr. de Vaugine's plantation and proceeded to make an inventory, description and appraisement of the property belonging to the community. This was done in the presence of Messrs. Paul Augustin Pelletier de la Houssaye, Chevalier of the Royal and Military Order of Saint Louis, a former Major of the Place, Antoine Bernard Dauterive, Captain on half-pay, Louis Grevemberg and also Jean Berard and Claude Boutte, whom they found on the plantation, who were commissioned as appraisers. The appraisers accepted and took oath by God, Our Lord and a sign of the Cross, to make the appraisement faithfully and well to the best of their knowledge.

The first item is the plantation 40 x 40 arpents, on the east bank of the river and on the west bank another 40 arpents front by 20 deep containing a principal house which rests on a foundation (sleepers), divided into three rooms enclosed by galleries on two sides with two storehouses made of posts in the ground covered with straw valued at 200 pesos. Two pairs of vats with crushers, a machine to draw water, a horse-mill with iron chains to thresh indigo, all valued at 150 pesos.

As the inventory proceeds it is shown that the de Vaugine plantation contained everything a well regulated and organized indigo plantation should have, viz: Wagons, carts, horses, tools, implements, keys, slaves, household furniture, livestock and poultry. The papers consist of such obligations as bills, bills of exchange, notes, etc., for and against Mr. de Vaugine. All property inventoried is left with Mr. de Vaugine who promises to hold it at the disposition of those to whom it belongs.

Signed by Vaugine, Berard, Delahoussaye, Boutte, Dauterive, Fuselier de la Claire, Louis Grevemberg.

NOTE: This inventory has been translated and will be published in full hereafter.

1773—February 8.
Carlos Philibot petitions to make an inventory of the estate left by his late wife, Anne Bonhomme.
No. 51. 161 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.

This record has great educational value to the student of the Spanish system. It shows what we often see in modern times—a tremendous litigation over a small estate, which is all but eaten up in costs.

Petitioner represents that his wife has died leaving under his tutelage five children, two under age and three married. It becomes necessary to give each one his legitimate inheritance and to do so an inventory must be made by the relatives and friends and a sale made of the slaves. Unzaga denies this petition.

(Note: Because it is not in conformity to Spanish procedure, which did not require a family meeting to effect a sale and partition of an estate where there are minor heirs.—L.L.P.)

Carlos Philibert then presents his marriage contract dated Fort Chartres, Illinois, February 8, 1747, between himself, Charles Philibot, a traveling merchant of Illinois, living at Fort de Chartres, son of Charles Philibot and the deceased Marie Charlotte Buenonnes and Ann Marie Boulogne (written also Bonhomme), widow of the late Jacques Philippe, daughter of Pierre Boulogne and Catherine Raget. He states his wife has died, leaving five children, four by her marriage to him, viz: Theresa, aged 22, married to Mr. Mayou; Margarita, aged 18, married to Mr. Sibilor; Juana, aged 14, Carlos, aged 9. The other remaining child, called Ignes (Agnes or Ines), married

to Joseph Hebert, born of his wife's previous marriage to (Jacques) Miguel Philipe. In order to give to each heir of age his share of the estate which consists in slaves, it becomes necessary to sell them in a manner which will not occasion too much expense, the proceeds to be deposited with him as legitimate tutor and curator of the minors and a division made of what goes to the heirs of age, in accordance with his marriage contract which stipulates his wife's dowry, and his own capital at the time of his marriage.

A copy of this petition is ordered sent to his step-daughter, Ignes. As she is living in Illinois, Philibot asks that witnesses be called to verify the fact. Juan Carlos Vienne, Pedro de Verges and Pedro Clermont all testify that she has been in Illinois for four months. Thereupon the Court appoints Leonardo Mazange as her curator or defender who must first qualify, which he does, giving as surety, Francisco Liotau, whom he also names his appraiser in the taking of the inventory. The Court appoints him and he qualifies. Carlos Philibot names Carlos Laveau as his appraiser, who is appointed and qualifies.

April 23, they proceed to the taking of the inventories in the presence of Cecilio Odoardo, Assessor General, commissioned for this duty. Leonardo Mazange, attorney for the absent heir, Francisco Broutin, attorney for Philibot, Carlos Laveau and Francisco Liotau, Andres Almonester acting as escribano. The estate consisting of house furnishings, slaves, and papers; among the latter are many belonging to the succession of the deceased Santiago Philipe containing his active and passive debts. The first item of this inventory is a receipt by private written document by Mr. Gagnon, priest, for 6 pesos for the rental of a pew in the Church for the years 1745 and 1746, dated February 11, 1746. This inventory of the Philipe succession shows the liabilities to be greater than the assets. The inventory is approved by Unzaga, on Odoardo's advice, and all parties must abide by it. A copy of the records must be sent to the curator of the absent heir to promote what may be suitable to his client's interests.

June 20, Leonardo Mazange, defender for Ignes Philipe, wife of Joseph Hebert, asks that Mrs. Philibot's property be sold at public auction to the highest bidder and the proceeds placed with the General Receiver until the suit is ended; the public calls for the sale to be made, and that Philibot be ordered to exhibit the papers enumerated in the inventory. Petition granted and the first public call for the sale is made.

June 23, Philibot says he has several minor children in a beggarly condition whom he will not be able to feed if the little he has is sold. He asks that the estate be adjudicated to him at the price of its valuation and that the present escribano divide the property, making it evident what should belong to each one. Mazange agrees to this arrangement provided Phil-

ibot give adequate bond. It would seem that Philibot was unable to procure a bondsman, because on July 27 he says he is a poor man entrusted with a large family and can not find a bondsman. He has not dissipated the property, but on the contrary, has increased it; he offers his juratory security with the said property remaining mortgaged for the part which will belong to the heirs at the time of the division because if the estate were sold now the proceeds would not be sufficient to feed his children. He prays for adjudication under the said juratory security obligation, he himself to maintain the property until he surrenders it to those to whom it may belong.

August 8, Mazange makes no objections provided Philibot conforms to the obligation he has offered and prays that it be ordered verified as such, so that the escribanos del numerarios (clerks of the Cabildo) will not draw up any written documents of alientation for this said property. Unzaga, on Odoardo's advice, rules: that Carlos Philibot's petition against the sale of the property is out of order as the decree for the sale was made with his consent, at his instance and in answer to his petition. Therefore, the Court orders that the calls for the sale of the property be made. The two attornies, Francisco Broutin and Leonardo Mazange, to pay the costs, one-half each, for the articles introduced to forbid the sale.

The second and third calls are made August 9 and 19, and on the request of Philibot the Court names August 29 as the day for the auction. Each item mentioned in the inventory is offered to the highest bidder in the presence of Cecilio Odoardo, the two attornies and Carlos Philibot. When the slaves were offered they were bid in as follows: Pedro de Jordon 372 pesos for Philibert, aged 18; Juan Meledoc 130 pesos for Jacinto, aged 14; Francisco de Bouligny 301 pesos for Ursula, aged 14; and Pedro Cowley 156 pesos for Theresa, aged 8. These bids were accepted and the money paid over to Joseph Ducros, General Receiver; this money he holds at the disposition of the Court, Ducros' receipt is signed in the presence of Juan Suringue (Zeringue), Manuel Monteagudo, Fernando Rodriguez, witnesses, and Joseph Ducros. Attested before Andres Almonester.

September 13, Dr. Santiago L e d u c presents his bill of 36 pesos for professional services and asks verification. Philibot acknowledges the debt. November 16, Mazange asks that the plaintiff declare what property he has in Illinois. This he does to the effect that in Illinois under his administration there is a house with two arpents and a half of land. The half arpent is immediately beside the house and the other two arpents are farther away. There is also some livestock, cows, horses, he does not know exactly how many; a negress whose name he has forgotten, and some scanty furnishings that appear in the inventory made at the time of his marriage and

which were given to his stepdaughter, Ines, wife of Joseph Hebert.

Procuration. Dated August 30, 1774, at the Post of Saint Louis, before Pedro Piernas, Lieutenant Governor of Illinois, Province of Louisiana, there appeared Ignes Philipe, of age, wife of Joseph Hebert, sole heir to her deceased father (Jacques Philipe) and co-heir with her half sisters and brother to the estate left by her mother, Mariana Bellegarde (Bonhomme), wife of Carlos Philibot, who has died in New Orleans, who grants her power of attorney to Francisco Dursy (Durcy) to represent her interests in New Orleans. On January 17, 1775, and again on the 25th, Francisco Durcy, acting for Mrs. Hebert, asks to have the records of the case turned over to him. These are ordered delivered to him for two days.

January 26, Dr. Le Duc asks that General Receiver Ducros be ordered to pay his bills from the funds produced by the sale of the slaves belonging to Mrs. Philibot's succession, now in his possession. This is ordered sent to the interested parties. On the same day Ines Philipe, through her agent, asks that her stepfather be ordered to exhibit the inventory made at her father's death and all other papers inventoried herein and that these papers be delivered to her to be used when convenient to her rights.

January 30, Philibot presents these papers which consist of death certificates of slaves, signed by Father Dagobert, receipts, a letter from his stepdaughter dated Saint Louis, May 10, 1773, acknowledging the news of her mother's death, certified copy of the inventory and valuation made in Fort Chartres, Parish of St. Anne, on February 7, 1747, at the request of Marie Boulange, or Bellegarde called Bonhomme, widow of the late Jacques Philipe, because of the community interests existing between them and her tutorship of her minor daughter Agnes (Ines) Philipe. This inventory was made in the presence of Joseph Loiselle, under tutor. The collection of papers also contains notes, bills, letters, etc., and all such papers as are usually filed as vouchers in the settlement of a succession when an account and sworn statement is rendered, as Philibot does in this case. He further states that Dr. Le Duc's bill is just and legitimate and asks that Ducros pay it from the funds in his possession belonging to the Bonhomme succession. The Court orders this sent to the other interested parties.

February 4, 1775, Leonardo Mazange presents a certified copy of a notarial act for substitution of procuration by which Francisco Durcy appoints the former to act for him as Ines Philipe's agent in the suit she prosecutes against her stepfather for her share of her mother's estate. He says he offers no objections to paying Dr. Le Duc's bill for treatment and medicines for her late mother and asks that Joseph Ducros be ordered to pay it.

February 8, Carlos Philibot states that his minor children have no one to defend their rights and asks that a curator ad lites be appointed for them within a short space of time with a warning that if this is not done one will be officially named for them. A curator is ordered appointed within one day. On March 6, Carlos and Juana Philibot in the form of a petition presented in the style used when petitioners can not write, ask to name as their curator ad lites their brother-in-law, Juan Miguel Civilot (Sibilof). The Court appoints him, ordering him to qualify, which he does on the same day, giving as his surety Fernando Rodriguez. On March 7, 1775, all legal requirements having been fulfilled, Unzaga signs the order of curatorship confirming Juan Miguel Civilot in the office.

March 27, Miguel Civilot as curator and also as husband representing his wife, Marguerite Philibot, says he has received the records of the case and hereby approves and verifies all that has been done. He asks that his father-in-law be ordered to make a declaration in conformity to the decree regarding his property in Illinois. The Court orders Dr. Le Duc paid and the records of the case sent to Ines Philipe (her agent) within two days. Joseph Ducros pays Dr. Le Duc his bill, who receipts for the money in the presence of Fernando Rodriguez, Augustin Moreno, Bernardo Oson. Signed: Le Duc, attested before Andres Almonester.

April 1, 1775, Philibot, through his attorney Broutin, asks for a taxation of costs to be paid out of the funds in the hands of the General Receiver. Granted. Costs taxed April 4, as follows: those to be paid by Anna Bonhomme's succession 1603 pesos, 1 real. Those to be paid by Francisco Broutin and Leonardo Mazange, 15 pesos, 3 reales.

June 20, Ines Philipe makes demands on the succession setting forth that from the 959 pesos resulting from the sale of her mother's property she be paid 3496 livres, 7 sols, which are due her from the estate in this manner: 2557 livres the one-half of her father's estate as per inventory, 300 livres from her mother's dowry according to her marriage contract, and 639 livres, 7 sols which is the one-fourth part which should come to her from her mother's estate in the distribution she shares together with the other heirs.

This demand is answered by Carlos Philibot. He refutes her claims saying he owes her nothing, on the contrary, she owes him a negress and her children, if any. According to their marriage contract his wife's dowry was 513 pesos, 4½ reales and his was 324 pesos, 7 reales, all entered as community as the contract stipulates but he should not be held responsible for any amount because he did not receive the full amount stated in the inventory as he will make clear, viz: Articles 1, 2, 8, 16 were left with Inés Philipe for her use; Nos. 3, 9, 10, 11, 12, 13, 14, 15, 27 and 28, have been used up; Nos. 17 to 26 in-

clusive, were his wife's clothes and are worn out; No. 29 were the negroes, Baptiste and Maria, his wife, who are dead as is made evident by their death certificates; Nos. 30, 31 and 32 are in the hands of the English in what is now their territory, he was obliged to abandon his possessions there when the country passed from His Most Christian Majesty (King of France); No. 34, the cow he gave Ines Philipe at the time of her marriage, and she promised to give him credit for this in the accounts; Nos. 35, 36 and 38 have been consumed for the maintenance of the children; No. 39, a debt due by Mr. Baby, who was killed in the year '48 at the German Coast by the Chactas and it is well known in the colony that he was insolvent at the time of his death, and that he did not pay his debt. Furthermore, the estate owes the Hospital for the Poor 5 pesos, for his wife's coffin, and making her grave, 5 pesos, 7 reales, besides for the rental of a house from Mrs. Renne which his wife occupied during her illness. He also paid Mr. Pradel 20 pesos, a debt for his son-in-law Mr. Mayou, as appears from Pradel's receipt. The negress in Illinois with his stepdaughter is a part of the succession, so he prays for a despatch to be issued and sent to the Commander of that Post ordering her to be sold judicially for cash together with the other effects and the proceeds sent to the General Receiver so as to surrender to each heir the part which belongs to him. A copy of this petition is ordered sent to each one of the interested parties.

July 15, 1775, Leonardo Mazange acting for Ines Philipe answers objecting to the placing of the 2567 livres, 16 sols in the second community property because it belonged to his client after the death of her father, she should also be paid interest on this money because in the marriage contract her step-father acknowledges to have received this amount. He should give her two cows, as her father and not Mr. Loiselle had given them to her and that they were left in her step-father's charge, and further she should receive the offspring of these said two cows. Philibot's last petition is attacked point by point. She reiterates her demand for 2567 livres, 16 sols with 5% interest for 15 years. This is ordered sent to the interested parties.

July 20, Philibot undertakes to refute his stepdaughter's claim, stating that it is evident that she has never read the marriage contract because it is stipulated therein that he never received the 513 pesos, 4 reales (2567 livres, 16 sols) he certainly can not owe interest on a sum he never received nor can he be held responsible for the death of slaves. Before he was put in charge of the tutorship of his stepdaughter her curator ought to have sold (havia de hacer vender: had to make sale) all the property left by the death of her father, so as to secure it for his minor, but in Illinois at this time the Post had no jurisdiction, nor law, order nor formality. As to the two cows she claims, Mr. Loiselle or her father gave her, he

knows nothing about the matter. He prays that her demands be excluded and that the Court will decree as he has previously prayed (the request for the sale of the negress and other property belonging to his late wife in Illinois). This is ordered sent to the other interested parties.

July 27, the curator for the minors prays for a final judgment. On August 4, Unzaga, on Odoardo's advice, cites the parties for the definitive sentence which is pronounced on August 16, as follows:

> Considering the proceedings for the settlement of the intestate succession of Anna Bonhomme; the inventory of her property which was verified at the instance of her widower, Carlos Philibot; the auction sale of her effects with the consent of her heirs; the suit brought by Ines Philipe for her share of her legitimate patrimony according to inventory filed on page 59. Whereas; the exposition made by Carlos Philibot must be considered as satisfactory as it has been made evident by inventory that at the time of his marriage his wife's first husband's estate was loaded with debts that he, Philibot, paid as is proven by the receipts he has presented. His wife abandoned the most valuable of her property, viz: the plantation, house and slave without mortgage or lien, to her daughter by her first marriage. Therefore, His Lordship decrees that he should and does declare that Ines Philipe's claim must be denied. He orders the estate divided as property acquired during married life, the marriage contract to be disregarded altogether. As for the part of the property which was abandoned to the child by the first marriage, His Lordship can put no value on it nor make the amount of it clear. Of what has been sold and adjudicated here he divides as follows: one-half goes to the husband, the other one-half to be divided among the five children share and share alike. On account of the smallness of the estate it is impossible for the minors to subsist on the revenue derived from it, therefore let the part which should come to them be handed over to the father for their support. In order that what he has provided may have effect, His Lordship named and did name in the capacity of Judicial Accountant (Contador Judicial) Don Andres Lopez Armesto, who must first accept and take oath. A taxation of costs must be made, and that Armesto will verify the debts due the body of the estate. Thus His Lordship provided with the advice of his Assessor General and thus he ordered and signed to which I, the escribano, attest. Signed: Luis Unzaga y Amezaga, Dor Cecilio Odoardo; before Andres Almonester y Roxas, Notary Public.

August 26, 1775, Carlos Philibot states that this cause is definitively sentenced and the time for appealing has passed, he therefore prays that the said sentence be held to be consented to and passed with the authority of a thing adjudged. This is ordered sent to the other interested parties. On August 31, Philibot sets forth that a copy of his previous petition was sent to Ines Philipe and though several days have gone by, she has not answered. He asks that she be declared in default and final judgment be given as he has prayed. Unzaga, on Odoardo's advice, declares her in default and orders the final judgment passed, which is done on September 1, in this manner:

> Whereas: Let the definitive sentence pronounced on August 16, be declared as consented to and passed in authority of a thing adjudged and in consequence thereof let it be guarded, complied with and executed according to its form and tenor. Assessor's fees, 10 reales. Signed: Unzaga, Odoardo.

Taxation of costs made by Andres Lopez Armesto, Tax Assessor, September 5, 1775, at 30 pesos, 5½ reales, who also makes the partition of the estate which consists of the funds resulting from the sale of the slaves which were deposited with the General Receiver and from which certain debts must be paid. The result is as follows:

Total Capital	959	pesos	
Deductions	227	"	1 real
Liquid Assets	731	"	7 reals

One-half, or 365 pesos, 7 reals, 17 maravedi, is turned over to Mr. Philibot as his share. The other one-half is divided into five equal parts, each heir receiving 73 pesos, 1 real, 17 maravedi. Signed: Manuel Andres Lopez Armesto, Contador Judicial, September 6, 1775.

On September 15, Philibot, on the 13th, the Minors' Curator, and on the 18th, Ines Philipe, each in a separate petition, sets forth that the partition conforms to Law and Justice; they ask that all parties be ordered to abide by this division, and that it be approved by the Court. On September 19, Unzaga, on Odoardo's advice, rules:

> With the consent of the parties, His Lordship approves and does approve of the accounting and partition made of Anna Bonhomme's estate and condemns and does condemn all parties to abide by this said partition. He orders a taxation made of the costs by the tax assessor

already named, who must include in the form a fee of 44 reales for the drawing up of the accounts and division which tax His Lordship places for the writing of that instrument, with an added 10 reales assessor's fee for this ruling. Signed: Unzaga and Odoardo.

Manuel Andres Lopez Armesto taxes these last costs at 18 pesos, 7 reales. On September 20, Philibot signs a receipt for his share and also for the part which comes to his two minor children. This money was delivered to him by the General Receiver. On the same day Miguel Civilot receipts for his wife's share. Evidently each heir in turn signs a formal receipt either in person or through an agent, but the record ends here with the last page missing.—L.L.P.

Note: The settlement of this succession is irregular and intricate, owing first to the absence in Illinois of one of the heirs where some of the property is located. Secondly, because of the two sets of children with two community interests which were never properly separated at the time the law required this to be done. And in the third place, the wanton wasting of an estate through litigation because of one of the heirs making exorbitant demands for a share of property which existed only in her imagination.—L.L.P.

1773—February 8.
Marie Joseph Adat (Adam) widow of Andres Tete vs. Madame Boisclair.
No. 29. 11 pp.
Court of Governor Unzaga.
No Assessor.
Escribano, Andres Almonester.

To collect a debt.

Maria Adam, widow of Andres Tete, through her attorney, Leonardo Mazange, claims 353 livres, 5 sols on several notes. Defendant has her home in the country and has to be summoned to acknowledge her debt which she does on March 3, 1773. The case lapses for three years, and on February 24, 1776, Mrs. Tete presents a certified copy of a notarial act of the same date by which she substitutes Pedro Ignacio Cowley for Leonardo Mazange to act as her attorney. Through him she asks for a writ of execution against Mrs. Boisclair for the extent of the debt its one-tenth and costs. Unzaga orders the notes paid within five days. The defendant is out of the city and does not receive a copy of the foregoing decree, so the plaintiff prays for a writ of citation which is ordered issued. The record ends here.

1773—February 10.
Euphrosina Aubert petitions to have Leonardo Mazange appointed her curator ad lites to demand her share in her aunt's estate. Remedy denied because petitioner's father is alone authorized to prosecute such demand.
No. 3805. 11 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Juan B. Garic.

Maria Euphrosina Aubert, legitimate daughter of Juan Baptiste Aubert and the deceased Luisa Bernoudy, being over 12 years, asks that Leonardo Mazange be appointed her curator ad lites. The Court grants this petition ordering Mazange to qualify, which he does the same day, giving as surety Pedro Ignacio Cowley, who also qualifies. On February 19, Mazange sets forth that his minor's late mother, Luisa Bernoudy, was a sister of the deceased Mr. Bobe's first wife, Francisca Bernoudy, who died without issue, he therefore claims for his minor her share of her aunt's estate. It has come to his knowledge that Antonio Thomasin is in charge of Mr. Bobe's affairs; he asks that he be ordered not to dispose of anything until Miss Aubert's rights have been duly acknowledged. This is sent to the interested parties.

March 5, 1773, Don Valentin Bobe (See suit entered under January 15.—L. L. P.), through his agent, Antonio Thomasin, challenges Mazange's demands saying that he has not filed his claim in due form nor has he proven the legitimacy of his minor. He prays that his demands be excluded and that he be condemned to pay costs.

March 7, Mazange presents Miss Aubert's baptismal certificate in proof of her legitimacy. On March 18, Mr. Thomasin, acting for Bobe, sets forth that Maria Aubert's father is living and is therefore her tutor for the administration of her affairs. The father and not the curator has the right to claim her share in the Bobe estate. Besides he and Mr. Aubert, as tutor, have compromised on these rights which the curator is claiming which will be proven at the proper time. He asks that this case be excluded and Mazange condemned to pay costs.

On March 22, 1773, Unzaga on Odoardo's advice decrees: Whereas: It has been proven by Don Valentin Bobe that minors do not require curators but remain under the power of the father (Pater Podesta) as is the case of Maria Euphrosina Aubert with hers, Juan Baptiste Aubert who alone, should demand her rights. His Lordship revokes and does revoke the power of attorney by which Leonardo Mazange was appointed as curator to represent her. The said minor is to be notified of this and condemned to pay costs. Assessor's fees 2 pesos for this decree. Signed Unzaga and Doctor Odoardo. There is no taxation of costs.

1773—March 1.
Antonio Barnabe vs.
the de Morand Minors.
No. 37. 29 pp.
Court of Governor Unzaga.
Assessor, Cecilio Odoardo.
Escribano, Andres Almonester.
Action by purchaser against vendor for shortage of 2 arpents, 18 toises of land on the Chapitoulas coast 9 miles above New Orleans on the same side.
Specific performance decreed.

The record opens with a map and proces verbal by Luis Andry, dated December 16, 1771, which was made in virtue of a decree by Governor Unzaga in another suit asking for a survey of the boundaries of the de Morand minors' plantation. The map shows a big convex curve of the river in front of the said plantation which adjoins, on one side, the land belonging to the Beaulieu Brothers, and Monplaisir and the other, Mr. Langlois. The de Morand land touches the river, then there is a big drop which according to the engineer's lines forms an angle of 45 degrees, which he marks as 5 arpents, 12 toises by 5 arpents, 13 toises and within this space is written "Oblique line on which the land was measured in 1768 and then contained 10 arpents, but not now, because of the crumbling of the bank of the river at this point since this time."

Mr. Andry certifies that in fulfillment of the "foregoing decree" he went to measure the land belonging to the de Morand minors situated on the Chapitoulas Coast on the left bank of the river about three leagues higher than the city, accompanied by Mr. Valier interested in the succession of the deceased Mr. de Morand, Carlos de Morand, the eldest son, and Santiago Hallais, Curator of the minors. He cited the immediate neighbors both above and below, Messrs. Beaulieu and Langlois who assembled to acknowledge, recognize and point out to him (the surveyor) their respective limits of the land belonging to them, and to witness his operations, other neighbors were also present.

He began his survey according to the foregoing plan. He set up his graphometer on the banks of the river at a point marked "B" the beginning of the line of demarcation between the Beaulieu-de Morand lands. He proceeded to draw out his lines and compare his findings with the last survey made by Mr. Olivier de Vezin in 1768. He then placed his graphometer at point "C" on the river bank at the beginning of the line that marks the de Morand-Langlois land and made his calculations finding as a result that the line of measure contains 5 arpents 12 toises and therefore lacks 2 arpents, 18 toises which makes 3/5 of another arpent to equal the 8 arpents which the title calls for, and which is claimed according to said title. This certificate of survey is signed by Luis Andry, Joseph de Villiers, Santiago Hallais, Charles de Morand, Henrique Desprez, and Langlois.

Antonio Barnabe presents the foregoing map and survey and sets forth that he has bought some land from the de Morand

minors situated at the Coast of the Chapitoulas on the left bank of the river 2½ leagues above the city. This land was sold to him at public auction as containing 8 arpents front on the river as appears from the instrument which he holds drawn up by Juan B. Garic. Now that he wishes to build his house in the middle of the ground he finds that he has only 5 arpents, 12 toises instead of 8 arpents, which were sold to him, which may be ascertained from the plans and specifications of the surveyor Luis Andry, which were made in accordance with a decree of Governor Unzaga's Tribunal (December 16, 1771). For a certainty he lacks 2 arpents 18 toises which is 3/5 of a third arpent, and because of this deficit he can not pay cash for his land. As Mr. Langlois, his immediate neighbor above has recovered from the first vendor, Mr. Le Breton the 4 arpents of land which he lacked, finding himself in the same circumstances he, too, goes back to the original owner, Mr. Le Breton for his deficit in the amount of ground purchased. He prays that this short measure he mentions be ascertained by consulting the information given on this deficit which has already been made clear in the testimony in the suit Mr. Langlois vs. Mr. Bobe. In the absence of Mr. Le Breton Sr. and since the death of his son, Don Caesar (Cezaire) Le Breton, no one has been appointed to represent the father. He prays that a defender be appointed for him as was the case with Mr. Langlois and when the matter is made clear the Court will order the missing land surrendered to him. This petition is ordered sent to Charles de Morand's heirs.

March 27, Carlos de Morand's heirs present first a certificate dated 26 Jr. 1753, signed A. Jung to the effect that he sold his plantation to Mr. de Morand for 1500 livres. On the reverse side of this slip of paper is written, dated October 2, 1752, a certificate that Mr. Jung has paid 1500 francs for 4 arpents of land. This reads in translation:

> "I certify to have received from Mr. Jung the sum of one thousand five hundred francs this sum is for the entire payment for four arpents of land which I have sold situated between Messrs. Lacoteré and De Lery. This sum of fifteen hundred livres I pray Mr. Le Breton to pay back to Mr. Jung supposing that next Saturday the Council does not authorize the sale. (Supposé que Samdy prochain le Conseil n'en authorize par lavente.) At New Orleans October 2, 1752.
>
> (Signed) Chauvin Le Sueur (Or Sueux)
>
> Approving the transaction hereabove. Acquisition of Mr. Juin (Jung)
>
> Paraph.
>
> (One of the French officials unknown to L. L. P.)

The second exhibit is a Notarial Act signed Chantalou and paraphed as above dated August 2, 1754, by which Pierre Rene Harpain de la Gautrais, Lieutenant of the troops in this colony, and his wife Therese Neveux sells to Joseph Delfant de Pontalba, Captain of troops, a plantation 4 arpents front situated on the Chapitoulas (Road) about a league and a half from the city on the same side and of the usual depth adjoined on one side by Mr. Chauvin Beaulieu and on the other by Mr. de Morand. The vendors declare that the said land was given to them in pure gift by Mr. Chauvin Lafreniere without other title and was not comprised in the inventory which was made of his estate after his death, and has been in their possession about 9 years. The original of this is signed in the presence of and with the consent of Jean Pierre Girardeau, Officer of the troops acting as Major, Madam the vendress, with Charles Tizoneaux and Joseph Songy as witnesses. Signed in the minutes De la Gautrais, Therese Neveux de la Gautrais, Pontalba, Degirardau (Girardeau) Tizoneaux, Songy and the undersigned Notary. (Signed) Chantalou. Written across the back: "acquisition of Mr. Gautrais."

On the strength of these two exhibits presented in the interests of the de Morand heirs it is stated, that it is true that they sold at public auction to Mr. Barnabe 8 arpents of land, this was done in conformity to the titles they have also presented which proves that they bought 4 arpents from Mr. Jung and another 4 from Mr. Pontalba and as the said sale was made to us, they pray the Court to order this transaction included with this suit.

May 8, 1773, Andres Jung answers the petitions sent to him in the suit Barnebe vs. De Morand Minors, saying that he bought from Mr. Chauvin Le Sueux 4 arpents of land which he sold to Mr. De Morand Sr. as will appear from the Act of Sale on page 5, having delivered all the titles to this effect as also appears in the said act of sale, he asks that all demands against him he excluded. This is sent to the interested parties.

May 17, Antonio Barnabe states that Mr. Pontalba does not answer his petition as he is not in the colony, he asks that a defender be appointed for him. The Court orders witnesses summoned to testify to Pontalba's absence. On June 3, Salomon Malline, Michil Frilou, called St. Eloy, and Pedro Ignacio Cowley each in a separate declaration testifies that Joseph de Pontalba has been absent from the colony for a long time and is said to be in France.

This absence being duly proven, Unzaga on Odoardo's advice appoints Joseph Ducros Pontalba's defender ordering him to qualify, which he does, and answers for his client on July 9, saying: As it will appear from the act of sale on page 6, Joseph Pontalba bought the 4 arpents from Rene Harpain de la Gautrais who in turn received the land from Mr. Chauvin Lafreniere

as will appear in the said act. He asks that Barnabe be ordered to take up the matter with the Chauvin La Freniere interests. Unzaga on Odoardo's advice rules:

> Whereas the immediate causer (causante) is he who must make restitution to the purchaser let the de Morand minors be notified that within 15 days they must place themselves in accord with Antonio Barnabe for the 2 arpents, 18 toises which he lacks to complete the 8 arpents at which the plantation was adjudicated, taking recourse against his causer (causante). Assessor's fees 2 pesos. Signed Unzaga, Odoardo.

September 18, Francisco Joseph Le Bretton acting for Luis Cezaire Le Bretton, his father, sets forth that the land that the de Morand minors are ordered to restore can not be restored unless they take recourse against his father as he was the first vendor, this he knows to be true, and as the costs of the said recourse will be great to avoid these he asks that Luis Andry go to his father's plantation and deliver to Barnabe what his land lacks. Unzaga on Odoardo's advice rules:

> With the acceptation of the judicial finding represented by Francisco Le Bretton to deliver the 2 arpents, 18 toises stipulated in the sale made by his father of some land claimed by Antonio Barnabé, His Lordship says that he orders and does order that the second assistant (engineer) Luis Andry make the entire restitution for which Barnabe petitions, marking the limits and let the said Le Bretton pay the costs as first causer to which effect let the taxation be made by the present escribano with an inclusion of 10 reales Assessor's fees, Signed Unzaga, Odoardo.

October 29, Francis Joseph Le Bretton says that in accordance with the foregoing decree he has been ordered to pay costs, he calls the Court's attention to the fact that his brother's widow has all his father's property and rents it, consequently it seems suitable that she pay said costs from his father's estate. He prays that this be done and he absolved from this duty of paying. Granted.

January 25, 1774, Antonio Barnabe states that Luis Andry has put him in possession of the land that his plantation lacked as appears from the map he duly presented. He asks that the titles be returned used in the proceeding and that Luis Caezare Le Breton pay costs. The Court orders the return of the titles and this petition sent to the other parties. The record ends here without taxation.

(To be Continued)

STATEMENT OF THE OWNERSHIP, MANAGEMENT, CIRCULATION, ETC., REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912, of the Louisiana Historical Quarterly, published quarterly at New Orleans, for October 1, 1926.

State of Louisiana, Parish of Orleans, ss:

Before me, a Notary Public, in and for the State and parish aforesaid, personally appeared Henry P. Dart, who having been duly sworn according to law, deposes and says that he is the Editor of the Louisiana Historical Quarterly and that the following is, to the best of his knowledge and belief, a true statement of the ownership, management, etc., of the aforesaid publication for the date shown in the above caption, required by the Act of August 24, 1912, embodied in Section 443, Postal Laws and Regulations, to-wit:

1. That the names and addresses of the publisher, and the editor, are:

Publisher, The Louisiana Historical Society, The Cabildo, New Orleans, La.; Editor, Henry P. Dart, 1100 Canal-Commercial Bldg., New Orleans, La.; Managing Editor, None; Business Manager, None.

2. That the owners are The Louisiana Historical Society.

3. There are no stockholders, but the officers are: Gasper Cusachs, Pres.; Edw. A. Parsons, 1st V.-Pres.; Andre Lafargue, 2nd V.-Pres.; Jas. A. Renshaw, 3rd V.-P.; Wm. O. Hart, Treas.; Henry P. Dart, Editor; J. Mitchell Pilcher, Recording Secty.; Hy. M. Gill, Corresponding Secty.

HENRY P. DART.

Sworn to and subscribed before me this 30th day of September, 1926.

JOHN DART, Notary Public.

(My commission expires at death.)